

REPUBLIC OF LITHUANIA
LAW ON PUBLIC PROCUREMENT

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CHAPTER I
GENERAL PROVISIONS

Article 1. Scope of the Law

1. This Law establishes the procedure of public procurement, the rights, obligations and responsibility of entities of procurement, the procedure for the control of public procurement and settling of disputes.

2. The provisions of the Law have been harmonised with the EU legal acts presented in the Annex to the Law.

Article 2. Definitions

1. "**Open procedure (simplified open procedure)**" means the procedure when any interested supplier may submit a tender.

2. "**Common procurement vocabulary**" (hereinafter - **CPV**) means the classification system applicable to public procurement adopted by **Regulation (EC) No 2195/2002** and ensuring that it complies with other valid classifications. In the event of varying interpretations of the scope of this Law, owing to possible differences between the CPV and accordingly the Statistical Classification of Products by Activity in the EEC (CPA), General Industrial Classification of Economic Activities within the European Communities (NACE Rev.1) or the Provisional Central Product Classification (CPC Prov.), the NACE and CPC classifications shall take precedence.

3. “**Central purchasing body**” means a contracting authority specified in subparagraphs 1, 2 and 3 of paragraph 1 of Article 4 of this Law which”

- 1) acquires supplies and/or services intended for contracting authorities, or
- 2) awards public contracts or concludes framework agreements for works, supplies or services intended for contracting authorities.

4. “**Central portal of public procurement**” means the information system managed by the Central Procurement Office intended for:

- 1) providing electronic means for submitting and managing procurement notices and reports;
- 2) providing electronic means for conducting procurement procedures;
- 3) publishing information about procurement on the Internet.

5. “**Tenderer**” is a supplier that submitted a tender.

6. “**Negotiated procedures**” means those procedures whereby the contracting authorities consult the suppliers of their choice and negotiate the terms of contract with one or more of these.

7. “**Dynamic purchasing system**” means a completely electronic process for making commonly used purchases. The characteristics of which, as generally available on the market, meet the requirements of contracting authority. The use of dynamic purchasing system is limited in duration. The system shall be open throughout its validity to any supplier, which satisfies the selection criteria and has submitted an indicative tender that complies with the specifications.

8. An “**electronic auction**” means a repetitive process involving an electronic device for the presentation of new prices, revised downwards and/or new values concerning certain elements of tenders. It occurs after an initial full evaluation of the tenders, enabling them to be ranked using automatic evaluation methods. Consequently certain service contracts and certain works contracts having as their subject-matter intellectual performances, such as the design of works, may not be the object of electronic auction.

9. “**Electronic means**” means using electronic equipment for the processing (including digital compression) and storage of data which is transmitted conveyed and received by wire, by radio, by optical means or by other electromagnetic means.

10. “**Usual commercial practice**” means a practice when the contracting authority procures supplies, services or works following the procurement rules laid down by it and

the public procurement principles set forth in this Law from a supplier that offers the lowest price or gives the most economically advantageous proposal.

11. **“Candidate”** is any supplier seeking an invitation to take part in a restricted or a negotiated procedure.

12. **“Statement of confidentiality”** is a statement made in writing by a member or expert of the public procurement commission or any other person whereby such member or expert or other person undertakes not to furnish information to third parties, where disclosure of such information would be contrary to the requirements of this Law or public interests or would harm the legitimate interests of the suppliers and/or contracting authority participating in the procurement procedure.

13. **“Competitive dialogue”** means a procedure in which any supplier may request to participate and whereby the contracting authority conducts a dialogue with the candidates admitted to that procedure, with the aim of developing one or more suitable alternatives capable of meeting its requirements, and on the basis of which the candidates chosen are invited to tender.

14. **“Pre-qualification selection”** means a procurement procedure whereby the contracting authority selects, on the basis of the qualification criteria laid down in the contract documents, candidates eligible to be invited to submit their tenders.

15. **“Impeccable reputation”** means individuals other than those listed below:

1) persons convicted of a grave or especially grave crime, or of an economic and business crime or of a financial crime or a civil service crime and of a crime against public interests, irrespective of whether the conviction has expired or not;

2) persons convicted of a deliberate offence, if the conviction has not expired or been expunged;

3) persons who violated the requirements of the Law of the Republic of Lithuania on Adjustment of Public and Private Interests in the Public Service;

4) persons who abuse alcohol, narcotic, toxic or psychotropic substances;

5) persons convicted by an effective court judgement of a corruption offence;

6) persons who have been imposed a penalty (except for a warning) under the Code of Administrative Offences of the Republic of Lithuania for the violation of public procurement procedure and the penalty is still in effect;

7) persons who violated the norms of the politicians' code of conduct of the Republic of Lithuania;

8) persons who violated the norms of civil servants' code of conduct of the Republic of Lithuania.

16. **“Declaration of impartiality”** means a written statement given by a member or expert of the public procurement commission declaring his impartiality with respect to the suppliers.

17. **“Request”** means the totality of documents whereby the supplier expresses his willingness to take part in the procurement procedures.

18. **“Tender”** means the totality of documents submitted by the supplier in writing offering to supply products, provide services or perform works under the terms fixed by the contracting authority.

19. **“Tender security and security for the performance of the public contract”** means the method of ensuring the fulfilment of an obligation laid down by the Civil Code of the Republic of Lithuania.

20. **“Contract documents”** means documents describing the objective of procurement and contract terms and conditions that are published or presented by the contracting authority to the suppliers; these documents include a contract notice, an invitation to tender, technical specifications, draft contract and other documents and explanations to these documents.

21. A **“framework agreement”** means an agreement between one or more contracting authorities and one or more suppliers, the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged.

22. **“Design contest (simplified design contest)”** means the procurement procedures which enable the jury to select a supplier/suppliers who submitted the best plan or design (usually for area planning, building planning, architecture and engineering or data processing), with or without the award of a prize, a bonus or other award, and then invite such supplier to participate in the procurement procedures.

23. **“Written”** or **“in writing”** means any expression consisting of words or figures which can be read, reproduced and subsequently communicated. It may include information, which is transmitted and stored by electronic means.

24. **“Restricted procedure (simplified restricted procedure)”** means the procedure in which tenders may be submitted only by those suppliers who were invited by the contracting authority.

25. **“Supplier (supplier, service provider, contractor)”** is any economic entity that may be either a natural person, or a private legal person, or a public legal person or any group of such persons, which is able to offer or is offering goods, services or works.

26. **“Public procurement of works ”** means public procurement having as its object either the execution, or both execution and design, of works related to one of the activities referred to in Annex I of this Law, or the execution, by whatever means, of work corresponding to the requirements set by the contracting authority. Work means the outcome of building or civil engineering, works taken as a whole that is sufficient of itself to fulfil an economic and technical function.

27. **“Public procurement of services”** means public procurement having as its object A- and B-type services listed in Annex II to this Law, as well as procurement having as its object the supplies and services listed in Annex II of this Law, where the value of such services exceeds that of supplies, or procurement having as its object services listed in Annex II of this Law and works listed in Annex I of this Law, where these works are incidental to the principal object of the services contract. The object of procurement is to award a public sales-purchase contract.

28. **“Public procurement”** (hereinafter referred to as “procurement”) means the procurement of supplies, services or works performed by the contracting authorities subject to the rules set forth in this Law. The object of procurement is to award a public sales-purchase contract.

29. **“Public procurement of supplies”** means public procurement having as its object the purchase, lease, rental or hire purchase, with or without option to buy, of products supplies (raw material, products, equipment buildings and other items of any form), including siting and installation or other services necessary for preparing the supplies (products) for use. The object of procurement is to award a public sales-purchase contract.

30. **“Public sales-purchase contract”** (hereinafter referred to as **“public contract”**) means contracts for pecuniary interest concluded in writing (except in the case specified in Article 119(4) of this Law, where a public contract may be concluded orally, between one or more suppliers and one contracting authority and having as their objects supplies of products, execution of works or provision of services.

Article 3. Main Principles of Public Procurement and Compliance with them

1. The contracting authority shall ensure in the course of performance of procurement procedures and award of contracts compliance with the principle of equal treatment, the principle of non-discrimination, the principle of mutual recognition, the principle of proportionality and the principle of transparency.

2. The main goal of procurement shall be to award a public contract in compliance with the requirements set in this Law allowing to acquire for the contracting authority (to perform procurement by the authorising contracting authority) or third persons the necessary supplies, services or works making a rational and economic use of the resources allocated for this purpose.

3. Where a contracting authority grants special or exclusive rights to provide public services to another body, which is not the contracting authority, the instrument granting these rights shall stipulate that the body in question must abide by the principle of non-discrimination on national grounds when awarding contracts to third persons for supplies necessary for the provision of public services.

4. For the purpose of the award of contracts the contracting authority shall apply to suppliers from other EU member states (hereinafter referred to as Member States) conditions as favourable as those which it grants to the suppliers of third countries in implementation of the WTO's Agreement on Government Procurement.

Article 4. Contracting Authority

1. A contracting authority shall be:

- 1) any state or local authority;
- 2) any public or private legal person meeting the conditions set forth in paragraph 2 of this Article;
- 3) any association of authorities specified in subparagraph 1 and/or of public or private legal persons referred to in subparagraphs 2 of this paragraph;
- 4) any legal persons engaged in water, energy, transport or telecommunication activity, referred to in Article 70 (1)(2-4) of this Law.

2. A public or private legal person (with the exception of state or local authorities) shall be deemed to be a contracting authority, if all or part of its activities is intended for

meeting the needs of general interest, not having an industrial or commercial character, and meets at least one of the following conditions:

1) the activities thereof are financed, for more than 50 %, with state or municipal budget resources, or with other resources from state or municipal budgets, or with the resources of other public or private legal persons specified in this paragraph;

2) it is subject to management (supervision) by the state or local authorities, or other public or private legal persons specified in this paragraph;

3) it has an administrative, management or supervisory body, more than half of whose members are appointed by the state or local authorities or by public or private legal persons specified in this paragraph.

3. The Government of the Republic of Lithuania or an institution authorised by it shall approve the lists of contracting authorities (including military units and services of the national defence system).

4. The institution which approves the lists specified in paragraph 3 hereof must ensure that the lists are updated on a regular basis. The institution shall notify the Commission of the European Communities on a regular basis of any changes in the lists.

Article 5. Suppliers

1. If under the laws of the Member State in which they are established the candidates or participants have the right to provide a certain service, supply goods or perform works, they must not be rejected only on the ground that, as required under the laws of the Member State in which the contract of procurement is awarded, they must be natural or legal persons. However when awarding public contracts for supplies, services or works the legal persons may be requested to indicate in the request or tender the name and professional qualification of the employees responsible for contract performance.

2. The request or tender may be submitted by a group of economic entities. Where such a group is willing to submit a request or a tender, the contracting authority may not demand that the group acquire a certain legal form, however, after the contracting authority makes a decision to award the public contract to the selected group, it may be required to acquire a certain legal form if this is necessary for due performance of the public contract.

Article 6. Confidentiality

1. Except in the cases provided for in the laws, the contracting authority and suppliers may not disclose any information the confidential nature whereof has been indicated by the contracting authority or supplier.

2. The contracting authority, members of the Public Procurement Commission, experts or other persons may not disclose any information in relation to the completed procurement procedures, where disclosure of such information would be contrary to the laws, would harm the legitimate commercial interests of the parties or precludes fair competition.

Article 7. Commencement and Completion of the Procurement

1. The procurement shall commence upon receipt by the Public Procurement Office of a notice of procurement submitted by the contracting authority, or a prior call for competition submitted by the contracting authority operating in the water, energy, transport and postal services sectors; in negotiated or simplified negotiated procedure without publication of a contract notice - upon sending invitations to tender to the candidate (candidates); or, in case of procurement following the usual commercial practice - when the contracting authority approaches a supplier (suppliers) requesting to offer prices and conditions for the purchase of supplies, services or works.

2. The procurement (procurement of a lot) shall be completed:

1) upon conclusion of the contract (framework agreement) or selection of the winner in the design contest, who is not invited to participate in the further procurement procedure;

2) when all tenders are rejected;

3) when procurement procedures are terminated;

4) when no tenders or requests to participate are filed within the specified time limits;

5) the tender validity period expires and the contract is not concluded due to the reasons that are beyond the suppliers' control;

6) all suppliers withdraw their tenders or refuse to conclude the public contract.

3. At any time before the award of the contract, upon receipt of the consent from the Public Procurement Office, the contracting authority shall have the right to terminate the procurement procedures should the circumstances arise that could not have been

predicted in advance. The consent of the Public Procurement Office shall not be needed for terminating procurement procedures carried out following the usual commercial practice and procurement procedures carried out in compliance with Article 85 of this Law. In cases where the value of such contract exceeds the thresholds specified in Article 11 of this Law, the contracting authority shall notify the Public Procurement Office of the termination of procurement procedure and request publication of a notice of termination in the Official Journal of the Office for Official Publications of the European Communities and in the supplement "*Informaciniai pranešimai*" (Information notices) to the official gazette "*Valstybės žinios*" and in the Central Portal of Public Procurement .

Article 8. Public Procurement Office

1. Public Procurement Office is an institution operating under the Government of the Republic of Lithuania, which co-ordinates the activities of procurement, supervises compliance of procurement activities with this Law and the implementing legislation, is governed by this and other laws, legal acts and international obligations of the Republic of Lithuania and its own regulations and is financed from the State Budget. Regulations of the Public Procurement Office shall be subject to approval by the Government.

2. Public Procurement Office shall fulfil the following functions:

1) according to its competence draft and/or adopt legal acts regulating procurement;

2) supervise the compliance during public procurement procedures with the Republic of Lithuania Law on Public Procurement and the requirements of related implementing legislation, carry out measures to prevent violations of the above laws;

4) provide methodological assistance, draw up recommendations necessary for implementing the Law on Public Procurement, lay down the guidelines;

5) collect, store and analyse information about public procurement, whether intended or in process, as well as about the awarded public contracts and the contract performance results, also establish the violations of public procurement procedure, the character of the violations and the related decisions and penalties. Communicate such information, except for the confidential information, to the state or local authorities and make public announcement thereof;

6) analyse and assess the procurement system and draw up proposals for its improvement;

7) organise the training of the contracting authorities' civil servants or employees responsible for procurement and train the said persons;

8) offer consultations to contracting authorities and suppliers or make arrangements for their consulting on issues of procurement;

9) when deciding the issues of procurement, maintain contacts with the relevant foreign institutions and international organisations;

10) approve the simplified forms of procurement notices and specify the requirements for submitting notices;

11) approve the methods of calculating the estimated contract value;

12) approve standard forms of procurement reports and set the requirements for submitting the reports;

13) prepare and submit to the Commission of the European Communities, within the time limits and in the form set by the Commission, annual statistics on procurement of supplies, services and works as well as any other information that may be requested;

14) forward the notices of the contracting authority to the Office of Official Publications of the European Communities for publication as well as ensure publication of the notices and other relevant information submitted by the contracting authorities;

15) present to the Commission of the European Communities information specified in Article 124 of this Law about the violations of EU law;

16) transmit to the Commission of the European Communities a request for reconciliation referred to in Article 125 of this Law;

17) administer the central portal of public procurement;

18) assess the suppliers' appeals concerning the procurement conditions indicated the contracting authorities in the contract documents;

19) other functions prescribed by other legal acts

3. Rights of the Public Procurement Office:

1) to be provided by the contracting authority with information relating to procurement;

2) to be provided by the contracting authority, Public Procurement Commission or its members as well as experts taking part in procurement procedures explications of procurement-related actions or decisions;

3) to present contract documents and tenders submitted by suppliers for additional expert examination;

4) upon receipt of a notification about possible violations, to obligate the contracting authority, based on the criteria of reasonableness and fairness, to suspend procurement procedures, while upon establishing violations of law to obligate the contracting authority to terminate procurement procedures, to revoke or change the decisions or actions, which are not in conformity with the requirements of this Law;

5) in the cases established in this Law to give consent to the contracting authority to reject all tenders, terminate procurement procedures as well as, upon the receipt of the supplier's claim, make a decision not to suspend procurement procedures;

6) to take an administrative action in the manner prescribed by law against the persons who violate this Law;

7) upon establishing violations of the Law or possible manifestations of corruption to refer the material to law enforcement institutions for further investigation.

Article 9. Calculating the Value of Intended Public contract

1. The value of the intended public contract shall be the value of the intended public contracts to be awarded by the contracting authority calculated based on the total amount payable, net of VAT, including any form of option and any renewals of the contract. Where the contracting authority provides for prizes and/or payments to candidates or tenderers it shall take them into account when calculating the estimated value of the contract. The value of public supply contracts shall be estimated at the beginning of the procurement procedure referred to in Article 7(1) of this Law.

2. Contracting authorities may not split up the value of the contract with the intention of avoiding the application of the procurement procedure set forth in this Law.

3. The choice of the method for calculating a contract may not be done with the intention of excluding them from the scope of this Law.

4. The value of the intended public contracts for supplies or services shall be calculated by applying the methods of calculating the contract value of supplies or services approved by the Public Procurement Office.

5. In the event the public supplies or services contract is awarded once in the current fiscal year or within 12 months from the start of the procurement without the possibility of extension, then the value of the procurement shall be the estimated value of the contract intended to award.

6. In the case of supply or service contracts which are regular in nature (i.e., several contracts within 12 months) or which are to be renewed within a given period, the contract value shall be calculated in one of the following ways:

1) the contract value of the intended procurement shall be the actual value of similar public contracts defined in the methods for calculating the value of public contracts for supplies or services, approved by the Public Procurement Office, and awarded during the preceding fiscal year or the preceding 12 months, adjusted (if possible) to take account of the changes in quantity or value which would occur in the course of the 12 months following the initial contract;

2) or the contract value of the intended procurement is the estimated aggregate value of the similar public contracts for supplies or services, awarded during the 12 months following the first delivery, or during the contract period if that is longer than 12 months.

7. In case of public supplies and service contracts the estimated value of the intended public contract shall be the aggregate value of the supplies and services irrespective of their share of public contract. The estimated value shall also include the value of siting and installation of goods supplied under the contract.

8. The value of supplies or services which are not necessary for the performance of a particular works contract may not be added to the value of the works contract when to do so would result in removing the procurement of those supplies or services from the scope of the law applicable to the procurement of supplies or services of certain value.

9. Where the intended supply contract provides for a possibility of extension (option), the basis for calculating the estimated contract value shall be the highest possible total of the purchase, inclusive of the option clauses.

10. In the case of contracts for the lease, rental or hire purchase, with or without option to buy, of products, the estimated contract value shall be calculated as follows:

1) in the case of fixed-term contracts, if that term is less than or equal to 12 months, the total estimated value for the term of the contract or, if the term of the contract is greater than 12 months, the total value of the intended contract, including the estimated residual value (value at which the goods are bought);

2) in the case of contracts without a fixed term or whose term cannot be defined, the monthly value of the contract multiplied by 48.

11. For the purposes of calculating the estimated contract value for services, the contracting authority shall take account of the following:

1) of the premium or any other remuneration payable, in the case of insurance services,

2) as regards banking or other financial services, of fees, commissions and interest as well as other forms of remuneration payable into the bank,

3) of estimated value of services, where the public services contract is awarded to the winner of the design contest, including all prizes and/or payments to tenderers;

4) of the aggregate value of prizes or other payments payable to the winners or tenderers where service contracts are awarded after design contests, including the estimated contract value for services which may be alter awarded by negotiated procedure without publication of a contract notice according to Article 56(3) of this Law, except in cases where the contracting authority indicates in the contract notice that such public contract will not be awarded.

12. In the case of contracts not specifying the total price (i.e., specifying only pricing rules), the estimated contract value shall be calculated on the basis of:

1) in the case of fixed-term contracts, where their term is 48 months or less, the total contract value;

2) in the case of contracts of indefinite duration or with a term of more than 48 months, the monthly value of the contract multiplied by 48.

13. When calculating the value of public works contracts, account shall be taken of the estimated value both of the execution of the works and design (where the works are both executed and designed), and the supplies needed to carry out the works and made available to the contractor by the contracting authorities.

14. Where the supplies, works and services of the same type are procured by awarding several contracts at the same time in the form of separate lots , the value of the procurement shall be the total estimated value of these several contracts calculated in compliance with the provisions of this Article. The value of procurement so calculated shall apply for all lots. Whether or not this total amount is equal to or greater than the applicable international threshold, the contracting authority may apply the provisions of the procedure laid down in Chapter IV of this Law to any lots, where the value of any of

the lots, VAT excluded, is up to LTL 276,225 (EUR 80,000), in the case of contracts for services or similar contracts, or LTL 3,452,816 (EUR 1,000,000) in the case of works contracts, if the total value of the lots is up to 20% of the total value of the contract.

15. With regard to framework agreements and dynamic purchasing systems, the value to be taken into consideration shall be the maximum estimated value net of VAT of all the contracts envisaged for the term of the framework agreement or the dynamic purchasing system.

Article 10. Excluded Contracts

1. The following contracts shall be exempt from the application of this Law:

1) public contracts related to state secrets as they are defined by laws, or official secrets established by law where supply of products or services or performance of works must be accompanied by special security measures in accordance with the laws or regulations adopted by the Government of the Republic of Lithuania or when the protection of the basic interests of the state security or the confidential information of foreign states, the EU or international organisations that has been transmitted to the Republic of Lithuania so requires. The procedure for awarding contracts of the type shall be set by the Government of Lithuania pursuant to the basic provisions of this and other Laws, the international treaties of the Republic of Lithuania and the underlying and implementing decisions of international organisations, the basic provisions of the EU legal acts which ensure protection of state or official secrets as well as other interests of the state;

2) contracts awarded pursuant to other rules and for other purposes according to an international agreement concluded in conformity with the EC Treaty between Lithuania and one or more third countries, which are not EU members, and covering supplies, works, services intended for the implementation or exploitation of a project by the signatory states; all agreements shall be communicated to the Commission;

3) contracts awarded according to procedural rules set by another Member State the application of which has been agreed in the contract concluded by the contracting authority and the authority of the said state with respect to supplies, works, services intended for the implementation or use of the common project of the signatory states;

4) contracts awarded by the Lithuanian Army units stationed in foreign states under international agreements. The procedure for awarding contracts of this type shall laid down by the Government of the Republic of Lithuania;

5) contracts awarded pursuant to the particular procedure of an international organisation;

6) procurement or lease of land, existing buildings or other immovables, or acquisition of the title thereto, except for the procurement of financial services related to the above public contracts - financial services shall be procured subject to the requirements this Law. The procedure of procurement or lease of land, existing buildings or other immovables, or acquisition of the title thereto shall be established by the Government;

7) public contracts the principal purpose of which is to provide the contracting authorities a possibility to provide and operate electronic communications networks or to provide to the public one or more electronic communications services. As used in this subparagraph the terms "public communications network" and "electronic communications service" and the relating terms "network termination point" and "public electronic communications service" shall have the meaning indicated in the Law of the Republic of Lithuania on Electronic Communications;

8) contracts awarded pursuant to Article 296 of the EC Treaty. The procedure of procurement under the above provisions as well as the procedures of compensation in the event of purchasing of arms, munitions, explosives or other military supplies shall be set forth by the Government of the Republic of Lithuania.

2. In case of public services contracts, the following service contracts shall be excluded form the scope of this Law:

1) employment contracts;

2) contracts for financial services connected with monetary, exchange rate, state debt management, treasury agency, foreign stocks management policies as well as financial services in other activities in connection with the creation, issue, purchase, sale, assignment or transfer of securities and other financial instruments;

3) contracts for services provided by the Bank of Lithuania;

4) contracts for financial services provided by international financial institutions;

5) contracts for services of arbitration and reconciliation;

6) contracts for the acquisition of time for radio and television programme development, preparation for broadcasting, broadcasting of already developed radio and television broadcasts where the procurement is performed by the procuring authority specified in subparagraphs 1, 2 and 3 of paragraph 1 of Article 4 of this Law. The above procurement procedure shall be laid down by the Government of the Republic of Lithuania;

7) contracts for research and development services, except for those research and development services the benefit from which is used solely for business needs of the contracting authority and which are fully paid for by the contracting authority;

8) public service contracts awarded by another contracting authority, which enjoys the relevant exclusive rights, granted under the appropriate legal act in line with the EU requirements.

3. The requirements of this Law shall not be applicable with respect to the following contracts awarded by the contracting authorities operating in the water, energy, transport and postal services sectors:

1) contracts awarded for the purposes other than those referred to in paragraph 2 of Article 70 of this Law or for such activities which are carried out in a third country and do not involve the physical use of networks and geographical area of the EU member states;

2) contracts awarded for the purpose of resale or lease of the procurement object to the third parties provided the contracting authority has no special or exclusive rights to resell or lease objects of such contracts, and other economic entities are free to resell or lease the procurement object under the same terms and conditions as the contracting authority;

3) contracts awarded for the purpose of acquiring products, services or works to affiliated undertakings or when the products, services or works are acquired by an undertaking established by several contracting authorities for the purpose of carrying out activities specified in paragraph 2 of and Article 70 of this Law, from one of the undertakings affiliated with the contracting authorities which established the undertaking. In both cases referred to above the requirements of the law shall not be applied only provided that at least 80% of the average turnover of that undertaking for the preceding three years derives from the provision of such services by affiliated undertakings (where the undertaking has operated for less than 3 years, it is sufficient to indicate that the

turnover is probable taking into account business plans). Where more than one undertaking affiliated with the contracting authority provides the same service or similar services, supplies products or performs works, the total turnover of all those undertakings deriving from the provision of services, supply of products or performance of works by those undertakings shall be taken into account;

4) contracts awarded by the undertaking established by several contracting authorities for the purpose of carrying out activities specified in paragraph 2 of and Article 70 of this Law to one of the contracting authorities which established it or where public contracts are awarded to the undertaking by the contracting authority which established it if the undertaking is established for the purpose of performing the appropriate activity for the period of at least 3 years and it is indicated in the articles of association of the undertaking that the contracting authorities which established it shall be members of the legal person for at least the same period.

5) contracts which contracting authorities engaged in the water management sector award for the purchase of water for production or supply of drinking water;

6) contracts which contracting authorities engaged in the energy sector award for the purchase of energy or fuel for the production of electricity or heat. The procedure for awarding contracts of this type shall be set forth by the Government of the Republic of Lithuania;

7) contracts awarded by the undertaking providing bus transport services to the public if the services provided are excluded from the scope of this Law as specified in subparagraph 4 of paragraph 2 of Article 70 of this Law;

8) contracts awarded by the undertaking engaged in the water management sector, in the energy sector, transport or postal services sector, provided the Commission of the European Communities published a notice in the Official Journal of the European Communities to the effect that the activity of the undertaking is directly effected by competition in the markets and entry of the markets is not precluded by any restrictions as specified in Article 71 of this Law.

4. An affiliated undertaking means any undertaking the annual accounts of which are consolidated with those of the contracting authority, or, where the annual accounts of the undertaking are not consolidated with those of the contracting authority pursuant to the laws of the Republic of Lithuania, any other undertaking directly or indirectly dependent on the contracting authority or undertaking over which any other undertaking

may exercise, directly or indirectly, a dominant influence or which may exercise a dominant influence over the contracting authority or which, in common with the contracting authority, is subject to the dominant influence of another undertaking by virtue of ownership, financial participation, or the rules which govern it.

5. The contracting authority shall, upon the request of the Commission of the European Communities, notify it of any activities or product categories with respect to which the provisions of subparagraphs 1 and 2 of paragraph 3 of this Article are applied and in the cases specified in subparagraphs 3 and 4 of paragraph 3 of this Article submit to the Commission of the European Communities information about the public contracts awarded to affiliated undertakings, indicating the names of the affiliated undertakings, the subject and value of contracts awarded for the purpose of acquiring products, services or works as well as the substantiation of relations with the undertaking to which the contract is awarded, meeting the requirements of subparagraphs 3 and 4 of paragraph 3 of this Article.

Article 11. International Threshold Values

1. The international threshold values net of VAT are fixed to be as follows:

1) LTL 535,883 (EUR 154,000) for public supply and service contracts, except those referred to in subparagraph 4 of this paragraph, awarded or design contest carried out by contracting authorities which are on the list of contracting authorities belonging to the central state administration system, approved by the Government of the Republic of Lithuania or an institution authorised by it, whereas when contracts are awarded by the national defence authorities that are on the above list, this threshold value shall apply only to contracts involving products covered by the list of products approved by the Government of the Republic of Lithuania;

2) LTL 821,223 (EUR 236,000) when contracts for procurement of goods that are not on the list of goods approved by the Government of the Republic of Lithuania are awarded by defence authorities, which are on the list of contracting authorities belonging to the central state administration system, approved by the Government of the Republic of Lithuania or an institution authorised by it;

3) LTL 821,223 (EUR 236,000) where supplies and services are procured by contracting authorities other than those listed in the list of contracting authorities

belonging to the central state administration system approved by the Government of the Republic of Lithuania or an institution authorised by it;

4) LTL 821,223 (EUR 236,000) where the public contract concerns telecommunications services of category 5 (CPV codes 7524, 7525 and 7526) and research and development services of category 8 as listed in the list of A-type services in Annex II, and such contracts are awarded or design contests are carried out by all types of contracting authorities;

5) LTL 20,610,000 (EUR 5,923,000) for public works contracts.

2. The international threshold values net of VAT for the contracts awarded by contracting authorities operating the water, energy, transport or postal services sectors shall be as follows:

1) LTL 1,645,926 (EUR 473,000) where public supplies or services contract are awarded or the design contest is carried out;

2) LTL 20,610,618 (EUR 5,923,000) for works contracts.

3. After the European Commission revises the international threshold values specified in paragraphs 1 and 2 of this Article and publishes them in the Official Journal of the contracting authority shall comply with them when awarding contracts for purchasing goods, services or works. The Public Procurement Office may also publish information on the revised threshold values in "*Informaciniai pranešimai*" (information supplement to "*Valstybės žinios*") and in the Central portal of public procurement.

Article 12. Peculiarities of Public Contracts

1. Public contracts other than those referred to in paragraphs 2 and 9 of this Article, the value whereof is equal to or greater than the international thresholds specified in this Law, Article 11(1), shall be subject to the procurement rules set forth in Chapter II of this Law.

2. Contracts of the value equal to or greater than the international thresholds specified in Article 11(2) and awarded by the contracting authorities operating in the water, energy, transport or postal services sectors shall be subject to the procurement rules set forth in Chapter III of this Law as well as those set forth in Chapters I and II to the extent they are not contrary to those set in Chapter III.

3. Where the contracting authority subsidises directly more than 50% of a works contract on the list in the Annex I to this Law, or a work contract relating to construction of

hospitals and other health care institutions, facilities intended for sports, recreation and leisure, school and university buildings and buildings used for administrative purposes, it shall follow the provisions of this Law when procuring all works necessary for construction of the object concerned. The requirement shall be applied regardless of the contract value.

4. Where the contracting authority subsidises directly more than 50% of an individual contract concerning services that are procured in relation to the works contracts referred to in paragraph 3 above, then all such services contracts shall be awarded subject to the provisions of this Law regardless of whether the contract is awarded by one or several subsidised economic entities or the contracting authority itself for the benefit or on behalf of the economic entities. . The requirement shall be applied regardless of the contract value.

5. Where the procurement can also be subject to the provisions of Chapter II and Chapter III of this Law, whereas the object of procurement cannot be divided, then such procurement shall be subject to the rules set forth either in Chapter II or Chapter III of this Law, depending the basic purpose of procurement objective. The contracting authority must comply with the above requirement irrespective of where one or several public contracts are awarded.

6. Where the procurement can be subject to the provisions contained I, Chapters II and III if this Law, while it is not possible to determine, in an objective manner, which is the principal sphere of application of the object of procurement, the procurement shall be subject to the provisions contained in Chapter II of this Law.

7. Where any lot of the procurement is subject to the provisions contained in Chapter III of this Law, while it is not possible to determine, in an objective manner, the provisions of which Chapter - II or III - should apply with respect to the remaining lots of the contract, such procurement shall be subject to the rules set forth in Chapter III.

7. Where any lot of the procurement is subject to the provisions contained in Chapter III of this Law, while it is not possible to determine, in an objective manner, the provisions of which Chapter - II or III - should apply with respect to the remaining lots of the contract, such procurement shall be subject to the rules set forth in Chapter III.

8. The peculiarities of public contracts the value whereof is below the established international thresholds, as well as the public contracts referred to in this Law, Article 9(14) shall be specified in Chapter IV of this Law.

9. The peculiarities of public contracts for the procurement of B-type services listed in Annex II to this Law shall be specified in Chapter IV.

10. Where B-type services listed in Annex II to this Law are procured together with A-type services listed in the same Annex II, and the value of such services exceeds the threshold fixed for B-type services, the procurement procedure shall be chosen based on the provisions of paragraphs 1, 2, 4, 5, 6 and 7 of this Article, in other cases – provisions of paragraphs 8 and 9 of this Article.

11. Contracts whereby the concession is granted to the supplier shall be subject to the Law of the Republic of Lithuania on Concessions.

Article 13. Reserved Contracts

The contracting authority may set terms in contract documents providing for such contracts to be performed by social undertakings of the handicapped as well as undertakings and organisations in which not less than one half of the employees are handicapped or to provide for such contracts to be performed in the context of sheltered employment programmes where most of the employees concerned are handicapped persons. The contract notice shall make reference to this provision.

Article 14. Authorising another Contracting Authority to Award a Public Contract

1. The contracting authority may authorise another contracting authority (hereinafter referred to as “the authorised entity”) to organise and carry out the procurement procedures until the award of the contract. For this purpose, the contracting authority shall formulate the tasks for the authorised entity and give all the powers necessary to carry out these tasks. The authorisation shall be executed following the procedure set forth in the Civil Code of the Republic of Lithuania.

2. The responsibility for the tasks assigned to the authorised entity shall rest with the contracting authority, while the authorised entity shall be responsible for the execution of the tasks. The contracting authority shall be responsible for the conclusion and implementation of the contract.

Article 15. Centralised Purchasing

1. The contracting authority may also acquire supplies, services or works from the central purchasing body or through it.

2. The decision concerning the establishment of central purchasing bodies, their legal form or the granting to the purchasing body of the right to perform the functions of the central purchasing body shall be taken by the government of the Republic of Lithuania or an institution authorised by it and the municipal council.

Article 16. Procurement Commission

1. For arranging and executing procurement, the contracting authority must, or, if the usual commercial procedure is followed, may appoint the Public Procurement Commission (hereinafter - Commission), set its tasks and grant it the powers required for the fulfilment of said tasks. Should the contracting authority decide to authorise another contracting authority to perform these acts for it, these acts shall be performed by the authorised entity. The Commission shall work according to the work regulations approved by the founder, shall be responsible to the founder, and shall execute only the tasks or assignments of the founder that are given in writing. The contracting authority, which forms the Commission, shall be liable for its actions.

2. The Commission shall be formed on the instruction (order) of the contracting authority of at least 3 natural persons. The members of the Commission may also be employed on a contract basis. The head of the body, which formed the Commission or the person, authorised by him or the person employed in the body subordinate to it shall be appointed Chairperson of the Commission. When appointing the Commission members, regard must be had to their knowledge in the area of economics, technology, and legislation as well as their cognisance of this Law and other legal acts regulating public procurement. Only persons with impeccable reputation may be the Chairperson of the Commission commission members. The entity, which forms the Commission, shall have the right invite experts for giving consultations on the issue requiring special knowledge or for evaluating the matter. The commission meetings and the adopted decisions shall be valid if attended by over a half of all the Commission members.

3. The Commission shall function on behalf of the body, which formed it within the scope of the powers granted to it. The Commission shall function from the day of adoption of the decision concerning its formation until the fulfilment of all tasks given by the founding authority in writing, or until the decision to terminate the procurement is taken.

The Commission shall adopt decisions at the meetings by a simple majority vote, voting by open ballot. In the event of a tie, the Chairperson of the Commission shall have a casting vote. The Commission's decisions shall be recorded in the minutes. The minutes shall specify the reasons of the Commission's decision, give explanations and the separate opinion of each Commission member. The minutes shall be signed by all the members present at the Commission meeting.

4. Except in cases prescribed by the legal acts of the Republic of Lithuania, the Commission members and the experts invited by the body, which formed the Commission, shall be prohibited from providing third persons with any information concerning the contents of the tenders submitted by suppliers.

5. Every Commission member and expert may take part in the work of the Commission only upon signing the declaration of impartiality and the statement of confidentiality.

6. Commission members and experts shall be held liable for their work under the laws of the Republic of Lithuania.

Article 17. Communication and Information Exchange

1. All communication and information exchange between the contracting authority and suppliers may be performed by letter, by fax, by electronic means in accordance with paragraphs 4 to 6 of this Article, by telephone under the circumstances referred to in paragraph 8, or by a combination of those means, according to the choice of the contracting authority.

2. Communication and information exchange shall be carried out in such a way as to ensure that the integrity of data and the confidentiality of tenders and of all information supplied by economic entities are preserved. It is also imperative to ensure that the contracting authorities examine the content of tenders (the jury ascertains the contents of plans and projects) only after the expiration of the time limit for their submission.

3. The means of communication chosen must be generally available (i.e., all suppliers can use them) and thus not restrict the suppliers' access to the procurement procedures.

4. The tools to be used for communicating by electronic means as well as their technical characteristics must be non-discriminatory, generally available and

interoperable with the information and communication technology products in general use.

5. The following rules shall be applicable to devices for the electronic transmission and receipt of tenders and to devices for the electronic receipt of requests to participate:

1) information regarding the specifications necessary for the electronic submission of tenders and requests to participate, including encryption, shall be available to interested parties. Moreover, the devices for the electronic receipt of tenders and requests to participate shall conform to the requirements of paragraph 7 of this Article;

2) electronic tenders shall be accompanied by an advanced electronic signature in conformity with the requirements legal acts;

3) tenderers or candidates shall undertake to submit before the expiry of the time limit laid down for submission of tenders or requests to participate, the documents, certificates or declarations referred to in Articles 33 to 38 of this Law if they do not exist in electronic form.

6. In order to improve the level of certification services provided for electronic devices, voluntary arrangements for accreditation may be introduced and maintained.

7. Devices for the electronic receipt of plans, requests for participation and plans and projects in contests must at least guarantee, through technical means, and appropriate procedures, that:

1) electronic signatures relating to tenders, requests to participate and the forwarding of plans and projects comply with national provisions adopted pursuant to Law of the Republic of Lithuania on Electronic Signature;

2) the exact time and date of the receipt of tenders, requests to participate and the submission of plans and projects can be determined precisely;

3) it may be reasonably ensured that, before the time limits laid down, no one can have access to data transmitted under these requirements;

4) if that access prohibition is infringed, it may be reasonably ensured that the infringement of subparagraph 3 of this paragraph is clearly detectable;

5) only authorised persons may set or change the dates for opening data received;

6) during the different stages of the contract award procedure or of the contest access to all data submitted, or to part thereof, must be possible only through simultaneous action by authorised persons;

7) simultaneous action by authorised persons must give access to data transmitted only after the prescribed date;

8) data received and opened in accordance with these requirements must remain accessible only to persons authorised to acquaint themselves therewith.

8. Requests for participation in procurement procedures may be filed in writing or submitted by telephone. Where requests for participation are submitted by telephone, a written confirmation must be sent before expiry of the time limit fixed for their submission.

9. Contracting authorities shall have the right to request that requests for participation in procurement procedures submitted by fax must be confirmed by post or by electronic means. Any such requirement, together with the deadline for sending confirmation by post or electronic means, must be stated by the contracting authority in the contract notice.

Article 18. Contract

1. The contracting authority shall offer the contract of procurement to the tenderer whose tender is recognised as the successful tender based on the tender evaluation criteria specified in paragraph 4 of Article 39 of this Law, taking into account the requirements of Article 26 of this Law and whose tender has not been rejected by the contracting authority in accordance with the requirements set forth in Article 33 and 34, as well as qualification requirements, in accordance with economic and financial criteria, professional and technical knowledge of abilities specified in Articles 35 to 38 of this Law and, as necessary, upon carrying out the suppliers' qualification selection applying non-discriminatory selection rules and criteria. Where only one supplier takes part in the negotiated procedure, the contract shall be awarded to such supplier, provided that he meets qualification requirements laid down by the contracting authority and his tender meets the requirements set by the contracting authority. The supplier shall be invited to conclude the contract by a written notice at the same time informing him that his tender has been recognised as the successful tender, or as the acceptable tender in case of the

negotiated procedure with one supplier, and be indicated the date by which he is to arrive and conclude the public contract.

2. If the supplier, who has been given a proposal of contract award, refuses the award in writing or fails to present security for the performance of the public contract prescribed by contract documents or if the declaration referred to in subparagraph 5 of paragraph 2 of Article 24 of this Law submitted by the supplier is false, or if the supplier fails to come to sign the public contract by the date specified by the contracting authority, or refuses to conclude the contract under the conditions laid down in the contract documents, or a group of legal entities fails to establish a legal person as prescribed in paragraph 4 of this Article, he shall be considered to have refused the award of the public contract. In such event the contracting authority shall propose awarding the contract to the supplier whose tender in the descending order of tenders is next after that of the successful tenderer who refused the contract award.

3. When awarding the public contract, the price given in the successful tender, as well as the contract terms and conditions specified the contract documents may not be altered.

4. If the contract is awarded to a group of economic entities who submitted a tender under the joint activity agreement, the contracting authority may request that such group of economic entities acquire a certain legal form, where this is necessary in order to duly execute the public contract. The requirement for legal form may be set in the contract documents. If, when selecting the legal form, the contracting authority requests that the group of economic entities whose tender has been recognised as the successful tender establish a legal person, it shall award the contract to the legal person established by the economic entities. Having established a legal person, the economic entities shall provide a security for the obligations of the legal person established by them, relating to the performance of the contract. A notice to the effect shall also be made in the contract documents.

5. After the award of the contract the contracting authority shall as soon as possible, but not later than within 3 working days dispatch a notice of the results of the award procedure to other tenderers.

6. The contract shall cover the following items:

1) rights and obligations of the parties;

2) the object of the contract - supplies, services or works, and their exact quantities or scope (if possible);

3) the price or pricing rules set according to the methodology established by the Government of the Republic of Lithuania or a body authorised by it;

4) settlement and payment procedures;

5) deadlines for discharging obligations;

6) security for discharging obligations;

7) dispute settlement procedure;

8) procedure for termination of the contract;

9) the contract period;

10) in case of conclusion of a framework agreement – the provisions characteristic thereof;

11) the provision precluding the changing of the contract conditions during the contract period.

7. The criteria for setting the time limits as well as the cases of concluding contracts for a period of over 3 years shall be established by the Government of the Republic of Lithuania.

8. The contract of procurement shall be concluded in writing, except for the case specified in Article 119(4) of this Law where the requirements of paragraph 6 of the Article shall not apply.

9. The contract of procurement may not be concluded until the expiry of the time limits for the filing of the suppliers' claims and complaints as set by this Law.

Article 19. Procurement Reports

1. The contracting authority shall submit in writing to the Public Procurement Office a report on the procurement procedures regarding any contract awarded according to Chapters II, III and IV of this Law, including the cases where a framework agreement is signed or the dynamic purchasing system is applied. The report shall not be submitted when: contracts are awarded under the concluded framework agreement; contracts are awarded applying the usual commercial practice; contracts are awarded in accordance with the procedure established in Article 85 of this Law. The report shall include:

1) the name, address of the contracting authority, the object of the contract, framework agreement or dynamic purchasing system and the contract value;

2) when the negotiated procedure is selected - the reasons for choosing the method;

3) when the competitive dialogue procedure is selected - the reasons for choosing the method;

4) the names of the selected suppliers and successful tenderers and the reasons for their selection;

5) the names of the candidates and tenderers whose requests and tenders were rejected and the reasons for rejection;

6) the reasons for rejection of abnormally low tenders;

7) the name of the successful tenderer and motives for the selection of that tenderer; the share of the contract or framework agreement he may intend to subcontract to third parties and any proposed subcontractors, should such information be available to the contracting authority;

8) if the public contract was not awarded, or the framework agreement was not concluded or the dynamic purchasing system was not created - the reasons thereof;

9) other information prescribed by the Public Procurement Office.

2. When the contract is awarded by electronic means the contracting authority must substantiate the performed procurement procedures by documents.

3. The report shall be drafted and delivered to the Public Procurement Office within 14 days after the date of finalising the procurement procedures. The Public Procurement Office shall forward the relevant information to the Commission of the European Communities.

4. The contracting authority shall within 14 days submit to the Public Procurement Office the procurement report. The contracting authority specified in subparagraphs 1, 2 and 3 of Article 4(1) of this Law shall furnish reports about the contracts awarded in the course of the financial year when principal contracts are awarded under framework agreements and all contracts awarded following the usual commercial practice according to Article 85 of this Law. Reports shall be submitted within 30 days after the end of the reporting financial year.

5. The contracting authority shall within 14 days submit to the Public Procurement Office a report about any executed or terminated contract, except for the contract awarded following the usual commercial practice or according to the procedure established in Article 85 of this Law.

6. The report referred to in paragraph 1 of this Article shall be obligatory even if the public contract concerns B-type services listed in Annex II of this Law.

7. The information specified in subparagraphs 1 to 4 of paragraph 1 of this Article, shall be furnished to any person at his request.

8. The information specified in subparagraphs 5 to 9 of paragraph 1 of this Article shall be furnished to any candidate or tenderer at his request.

9. The report on the procurement procedures and the procurement reports shall be drawn up and submitted using standard forms approved by and complying with the requirements set by the Public Procurement Office. The data given in the reports shall be entered in the computerised database.

9. The report on the procurement procedures

10. At the request of the Commission of the European Communities the Public Procurement Office may transfer to it the reports specified in this Article or the principal information presented in the reports.

Article 20. Statistical Report

The Public Procurement Office shall every year not later than by 31 October submit to the Commission of the European Communities last year's statistical reports on the awarded contracts for supplies, services or works drawn up according to the requirements of the Commission of the European Communities.

Article 21. Preservation of Documents

The performed public contracts, requests, tenders, contract documents and documents relating to examination and evaluation of requests and tenders, other procurement related documents submitted in any manner, form and medium shall be preserved in the manner prescribed by the Law of the Republic of Lithuania on Documents and Archives but for not less than 4 years after the end of procurement. At the request of the Commission of the European Communities the documents shall be transmitted to it for the purpose of justifying the adopted decisions or submitting information.

CHAPTER II

CONTRACTS AWARDED BY STATE OR LOCAL AUTHORITIES, OTHER PUBLIC OR PRIVATE LEGAL PERSONS MEETING THE CONDITIONS OF ARTICLE 4(2) OF THIS LAW, ASSOCIATIONS OF ONE OR SEVERAL STATE OR LOCAL AUTHORITIES AND(OR) OTHER PUBLIC OR PRIVATE LEGAL PERSONS MEETING THE CONDITIONS OF ARTICLE 4(2) OF THIS LAW

**SECTION ONE
GENERAL PROVISIONS**

Article 22. Contract Notices

1. The contracting authority shall publish a prior information notice of any planned procurement, including the procurement for which a framework agreement is to be awarded, in cases where the value of contract to be awarded is not less than that specified in subparagraphs 1, 2 and 3 of this paragraph and the contracting authority intends to make use of the possibility to shorten the time limits for submitting contract notices indicated in Articles 44, 46, 75 of this Law. The requirement shall not be applied when applying negotiated procedure without publication of a contract notice. The contracting authority shall publish prior information notices without delay at the beginning of the financial year in case of supplies and services contracts, and, in case of public works contracts, immediately after making the decision to approve construction of objects. In order to make use of the possibility to shorten the time limits for submitting contract notices, a pre-information notice of the intended contracts shall be published:

1) where value of a supply contract, including the framework agreement, to be awarded in the next 12 months, estimated according to the provisions of Article 9 of this Law, is LTL 2,589,600 (EUR 750,000) or more. In this contract notice the contracting authority shall make a reference to the CPV nomenclature;

2) where value of a services contract, including the framework agreement, to be awarded in the next 12 months, estimated according to the provisions of Article 9 of this Law, is LTL 2,589,600 (EUR 750,000) or more;

3) where value of a works contract, including the framework agreement, to be awarded in the next 12 months, estimated according to the provisions of Article 9 of this Law, taking into account the type of work, is LTL 20,610,618 (EUR 750,000) or more.

2. In awarding public contracts for supplies, services or works or concluding a framework agreement by the open, restricted or negotiated procedure or by applying the

competitive dialogue, also in a design contest or applying the dynamic purchasing system the contracting authority shall publish a separate contract notice and, in the award of a contract based on a dynamic purchasing system, publish a simplified contract notice in the dynamic purchasing system.

3. The contracting authority which has awarded a public contract or concluded a framework agreement shall send a notice of the results of the award procedure as well as of the results of the design contest no later than 48 days after the award of the contract or the conclusion of the framework agreement or of the approval of the results of the design contest. In the case of the award of contracts on the basis of a framework agreement the contracting authority shall not be bound to send a notice of the results of the award procedure. Contracting authorities shall send a notice of the result of the award of contracts based on a dynamic purchasing system within 48 days of the award of each contract. They may, however, group such notices on a quarterly basis. In that case, they shall send the grouped notices within 48 days of the end of each quarter.

4. In the case of public contracts for services listed in this Law, Annex II B, the contracting authorities shall indicate in the notice of the awarded contract or concluded framework agreement sent to the Public Procurement Office whether they agree to its publication.

5. Certain information on the contract award or the conclusion of the framework agreement may be withheld from publication where release of such information would impede law enforcement or otherwise be contrary to the public interest, would harm the legitimate commercial interests of suppliers or might prejudice fair competition between them.

6. The information to be presented in the notices and standard forms for the publication of notices in the framework of public procurement procedures shall be established in the Commission Regulation (EC) No 1564/2005 of 7 September 2005 establishing standard forms for the publication of notices in the framework of public procurement procedures pursuant to Directives 2004/17/EC and 2004/18/EC of the European Parliament and of the Council.

Article 23. Preparation and Publication of Notices

1. Notices (prior information notices, contract notices, contract award notices or design contest reports) shall be published in the Official Journal of the European Communities, as well as in "*Informaciniai pranešimai*" (information supplement to the official gazette "*Valstybės žinios*") and announced in the Central Portal of Public Procurement. Prior information notices may be published by the contracting authorities on the Internet in the specially assigned section (hereinafter referred to as "buyer profile"). The notice may be published in the "buyer profile" only after sending to the Commission of the European Communities a notification of their intent to announce the notice in such a form. Date of dispatch of the notice to the Commission of the European Communities shall be indicated in the notice published on the "buyer profile".

2. In addition, contracting authorities may publish contract notices in publications or websites other than those specified in paragraph 1 above.

3. The contracting authority shall submit to the Public Procurement Office all notices to be published in the publications specified in paragraph 1 above and to be announced in the Central Portal of Public Procurement. The Public Procurement Office shall forward all notices conforming to the requirements of this Law for publication in the journals referred to in paragraph 1 above within 3 working days after receipt thereof, announce in the Central Portal of Public Procurement and inform the contracting authority concerned in writing about the date and means of dispatch. The date of dispatch so established shall serve as the starting date for calculation of time limits for sending all notices (except for public contracts subject to Chapter IV of this Law), and as the PIN dispatch date of all public contracts. The contracting authority must keep the documents confirming the dispatch of notices specified in this Article at the fixed date.

4. Notices shall be submitted in the manner specified by the Public Procurement Office.

5. The notices may not be published in other publications or in the Internet prior to the date of dispatch thereof to the Office of Official Publications of the European Communities. They shall indicate the date of the dispatch of the notices to the Office of Official Publications of the European Communities. The same notices published in different publications shall contain the same information.

6. The content of notices not sent by electronic means shall be limited to approximately 650 words.

7. The contracting authority shall send notices by electronic means in accordance with the format established by the Commission of the European Communities or by other means. In case of urgency, notices must be sent by fax or by electronic means.

8. Contract notices shall be published in an official language of the Community as chosen by the contracting authority (this publication of the notice shall be considered as the authentic text). The Office of Official Publications of the European Communities shall also prepare and publish a summary of the principal elements of every notice in any other official language of the European Union. The costs of publication of notices by the Commission of the European Communities shall be covered by the Community. The costs of publications announced by the State Enterprise Seimas Publishing House “*Valstybės žinios*” shall be covered by the contracting authority.

9. The contracting authority shall also publish notices of public contracts the value whereof at the time of publication is below the international thresholds.

Article 24. Contract documents

1. In contract documents the contracting authority shall give comprehensive information about the contract conditions and award procedures with the exception of the cases laid down in this Law.

2. The contract documents shall include:

- 1) instructions to suppliers (how to draw up tenders);
- 2) supplier qualification requirements, including qualification requirements for a group of individual suppliers who submitted one tender, or a group of suppliers acting under a joint activity agreement;
- 3) supplier qualification assessment procedure and the minimum number of candidates to be invited to submit their tenders, where the contracting authority has the right to restrict the number of tenderers in cases specified in this Law;
- 4) documents required to prove supplier qualifications;
- 5) the requirement to submit the supplier's declaration in the form established by the institution authorised by the Government of the Republic of Lithuania to the effect that he has not given and does not intend to give the state employees (personnel) of the

contracting authority any money or presents, has not rendered them any services or other remuneration for the conditions provided or not provided in relation to the actions favourable for the award of contracts;

6) indication of the products, services or works concerned, amounts, the nature of services incidental to the main public supplies contract, time limits for delivery of products, rendering of services and performance of works;

7) technical specifications;

8) tender evaluation criteria and conditions;

9) terms and conditions of the contract proposed to the parties by the contracting authority, and a draft contract (if available);

10) indication if variants are allowed and minimum requirements to the variants;

11) indication of the possibility of tendering for one, for several or for all the lots, as well as description of such lots;

12) information about price calculation and the manner of indication thereof in the tenders. The price shall include all relevant taxes;

13) tender security (where required) and contract performance security requirements;

14) deadline, place and manner for receipt of tenders;

15) ways how the suppliers may request clarification of the contract documents and where to obtain information about the meeting of the contracting authority with suppliers (if any), also ways in which the contracting authority may on its own initiative clarify (revise) contract documents (without changing the subject matter of the announced information and presenting the clarification (revision) to all suppliers to whom the contracting authority has presented contract documents);

16) the date until which the tender shall be valid or required tender validity period;

17) place, date and exact time fixed for the opening of tenders;

18) tender opening and tender evaluation procedures;

19) information that the prices offered will be in Litas. If the prices are quoted in foreign currency, they will be converted into Litas at the exchange rate fixed by the Bank of Lithuania on the last day of the period set for receipt of tenders;

20) names, surnames, addresses, telephone and fax numbers of the state employees or personnel of the contracting authority, or members of the Commission (one

or several) authorised to keep in touch with the suppliers and obtain from them, without any mediators, information regarding the procurement procedures;

21) any other requirements set by the Public Procurement Office under this Law or other procurement legislation;

22) reference to the PIN published in the official gazette "*Valstybes žinios*" (supplement "*Informaciniai pranešimai*") and the Official Journal of the EU, other publications and the Internet in case of the publication of a prior information notice.

3. It may be required in the contract documents that the candidate or tenderer specify any proposed subcontractors and the share of the contract he may intend to subcontract. The said reference shall not affect the supplier's responsibility for the performance of the contract the award whereof is intended.

4. Contracting authorities may lay down special conditions for the performance of a contract, relating to social and environmental requirements, provided that these are compatible with Community law.

5. The contracting authority may indicate in the contract documents the office or offices from which the candidate or tenderer may obtain the relevant information about the requirements relating to taxes, environmental protection, safety at work and employment conditions requirements which are in force in the country or the place of performance of a public contract and which shall apply with respect to the works performed or services provided during the performance of the contract. In such case the contracting authority shall request the candidates or tenderers to indicate, when drafting a tender, that they have taken into account the safety at work and employment condition requirements in force in the areas where the works will be performed or services will be provided. The provision shall be without prejudice to the application by the contracting authority of the provisions of Article 40 of this Law concerning the examination of the abnormally low tenders.

6. Prior information notices and contract notices shall be a constituent part of the contract documents. The contracting authority may choose not to repeat information provided in the notices, including the case where the technical specifications are based on the documents accessible to the suppliers and present a reference to other documents.

7. The contracting authority shall draft contract documents in compliance with the provisions of this Law. The contract documents shall be precise, clear, without ambiguities so that that the suppliers could submit tenders and the contracting authority purchase what it needs.

8.. Contract documents shall be drawn up in Lithuanian. In addition, contract documents may also be drawn up in other languages.

Article 25. Technical Specification

1. Supplies, services or works in procurement shall be described in technical specifications contained in contract documents. Certain definitions of technical specifications shall be given in Annex 3 to this Law. Whenever possible these technical specifications should be defined so as to take into account accessibility criteria for people with disabilities or design for all users.

2. Technical specifications must ensure competition and be non-discriminatory with respect to suppliers.

3. Without prejudice to mandatory national technical rules, to the extent that they are compatible with Community law, the technical specifications may be formulated by any of the following methods or their combination:

1) either by reference to standards, technical certificate or general technical specifications in order of preference, to national standards transposing European standards, European technical approvals, common technical specifications, international standards, other technical reference systems established by the European standardisation bodies or - when these do not exist - to national standards, national technical approvals or national technical specifications relating to the design, calculation and execution of the works and use of the products. Each reference shall be accompanied by the words "or equivalent";

2) or in terms of performance or functional requirements. Functional requirements may include environmental characteristics. However, such parameters must be sufficiently precise to allow suppliers to determine the subject-matter of the contract and to allow contracting authorities to award the contract for the necessary products, services or works;

3) to the object of procurement as mentioned in subparagraph 2 of this paragraph as a means of presuming conformity with such requirements referring to the specifications mentioned in subparagraph 1;

4) or by reference to technical specifications of certain characteristics of procurement objects as mentioned in subparagraph 1 or in terms of performance or functional requirements as mentioned in subparagraph 2.

4. Where a contracting authority makes use of the option of referring to the specifications mentioned in subparagraph 1 of paragraph 3, it cannot reject a tender on the grounds that the products and services tendered for do not comply with the specifications to which it has referred, once the tenderer proves in his tender to the satisfaction of the contracting authority, by whatever appropriate means, that the solutions which he proposes satisfy in an equivalent manner the requirements defined by the technical specifications.

5. Where a contracting authority uses the option laid down in paragraph 3 to prescribe in terms of performance or functional requirements, it may not reject a tender for works, products or services which comply with a Lithuanian standard transposing a European standard, with a European technical approval, a common technical specification, an international standard or a technical reference system established by a European standardisation body, if these specifications address the performance or functional requirements which it has laid down and where in his tender the tenderer proves to the satisfaction of the contracting authority and by any appropriate means that the work, product or service in compliance with the standard meets the performance or functional requirements of the contracting authority.

6. Where a contracting authority lays down environmental characteristics in terms of performance or functional requirements as referred to in subparagraph 2 of paragraph 3 of this Article it may:

1) use the detailed specifications, or, if necessary, parts thereof, as defined by European or (multi-) national eco-labels, or by and any other eco-label, provided that: those specifications are appropriate to define the characteristics of the supplies or services that are the object of the contract, the requirements for the label are drawn up on

the basis of scientific information, the eco-labels are adopted using a procedure in which state institutions, consumers, manufacturers, distributors, environmental organisations and other interested persons can participate;

2) indicate that the products and services bearing the eco-label are presumed to comply with the technical specifications laid down in the contract documents. In such case it must accept any other appropriate means of proof, such as a technical dossier of the manufacturer or a test report from a notified body.

8. Appropriate means referred to in paragraphs 4 and 5 of this Article might be constituted by a technical dossier of the manufacturer or a test report by the notified body. Notified bodies are test and calibration laboratories, and certification and inspection bodies, which comply with applicable European standards. A contracting authority shall accept conformity certificates from notified bodies established in the EU Member States.

8. Unless justified by the subject-matter of the contract, technical specifications shall not refer to a specific make or source, or a particular process, or to trade marks, patents, types or a specific origin or production with the effect of favouring or eliminating certain undertakings or certain products. Such reference shall be permitted on an exceptional basis, where a sufficiently precise and intelligible description of the subject-matter of the contract pursuant to paragraphs 3 and 4 of this Article is not possible; such reference shall be accompanied by the words "or equivalent".

Article 26. Variants

1. The contracting authority shall indicate in the contract notice whether or not it authorises variants. Variants shall be allowed only where the criterion for the award of the contract is that of the most economically advantageous tender. Only variants meeting the minimum requirements laid down by the contracting authority shall be taken into consideration.

2. The contracting authority shall state in the contract documents the minimum specifications to be respected by the variants and any specific requirements for their presentation.

3. In the procedures for awarding public supplies or services contracts, the contracting authority which has admitted variants, may not reject a variant on the sole ground that it would lead to a service contract rather than a public supplies contract or vice versa.

Article 27. Providing Contract Documents

1. The contracting authority may provide the supplier with contract documents:

- 1) upon supplier's request;
- 2) together with the invitation to tender;
- 3) by placing on the Internet or using other electronic means.

2. The contracting authority must provide the suppliers with the contract documents immediately but not later than within 6 days after the receipt of the request for provision with contract documents if the request is submitted in due time no later than 6 days before the deadline fixed for submitting tenders. If, on the basis of Article 40 (5) or Article 48 (5) (cases of urgency), the contracting authority reduces the time limits fixed for receipt of requests and tenders, the time limit for providing with contract documents and the time limit for the suppliers' request for contract documents shall be reduced to 4 days if the request is provided in due time.

3. The contracting authority may, in reply to the supplier's request, send at the same time explanations to all other suppliers whom it has provided with contract documents, not specifying however from whom it has received the request to present an explanation.

4. Before the expiry of the time limit for the submission of tenders the contracting authority may at its own initiative explain (fine-tune) the contract documents whereas the published information shall be specified by fine-tuning the notice.

5. If the contracting authority prepares a meeting with the suppliers it shall draw up a record of the meeting. All questions relating to the contract documents put during the meeting as well as answers to them shall be put down in the record. The record shall be dispatched to all suppliers who take part in the procurement procedures.

6. The time-limits for providing with contract documents referred to in paragraph 2 of this Article shall not apply if the contracting authority immediately after the date of

despatch of a contract notice or invitation to tender provides the suppliers with the contract documents by electronic means directly and free of charge.

7. The contracting authority may not provide the contract documents before the contract notice is published as specified in Article 23 (3). When providing the contract documents, the contracting authority shall observe the principles of equality and non-discrimination of suppliers.

8. The contracting authority may fix for all suppliers a single rate fee payable for the contract documents. The fee shall consist of the actual costs of copying and sending of the documents to the suppliers. An additional fee may be charged for translation of documents into a foreign language. This fee shall consist of the translation costs.

Article 28. Submission of Requests and Tenders

1. The contracting authority shall specify the deadline for submission of requests or tenders by indicating in the contract documents the date and the hour. In the event a tender is received after the specified date and hour, it shall be returned to the supplier unopened. The envelope with the tender shall also be returned is submitted in an unsealed and unstamped envelope.

2. The minimum time limits for the receipt of requests or tenders shall be counted (except for the public contracts subject to Chapter IV of this Law) from the date when the contract notice was dispatched from the Public Procurement Office to a special publication of the Office of Official Publications of the European Communities or to the official gazette "Valstybes žinios" (supplement "*Informaciniai pranešimai*") or the date of dispatch of the invitations to candidates.

3. All minimum time-limits for the receipt of requests or tenders fixed by the contracting authority may not be shorter than those set in Articles 44, 46, 52 or 75 of this Law, and shall be sufficiently long to give interested parties reasonable time for drawing up and submitting their tenders. When fixing these time limits, the contracting authority shall take account of the complexity of the public procurement and the time required for drawing up requests and tenders.

4. If, for whatever reason, the contract documents or parts thereof, although requested in good time, have not been supplied within the time-limits fixed in Article 27 of this Law, or where it transpires after the submission of contract documents that tenders can be made only after a visit to the site or after on-the-spot inspection of the documents

supporting the contract documents, the contracting authority shall extend the time-limits for the receipt of tenders so that all suppliers concerned are aware of all the information needed to produce a tender and notify thereof by fine-tuning the notice.

5. The contracting authority shall indicate in the contract documents, that the request or tender has to be submitted in writing and duly signed by the supplier or a person authorised by the supplier. It shall also request to submit the tenders in sealed and stamped envelopes. If the contracting authority intends to choose the most economically advantageous tender, in the contract documents it shall request the suppliers to submit two sealed and stamped envelopes: one with the price offer, the other with the remaining parts of the tender (technical data and other information and documents). The two envelopes shall be put into another sealed and stamped envelope. The pages of the tender (with supplements) must be numbered and bound, and endorsed by the supplier's signature and seal on the backside of the last page. Only the tender security documents may be presented loose and not numbered. The requirement to submit the tender or parts thereof in envelopes and to submit the tender bound shall not be applicable if the contracting authority accepts tenders transmitted using the electronic means.

6. The requirement set in paragraph 5 of this Article to submit a tender in two envelopes shall not apply if the contract is awarded by way of negotiated procedure and by competitive dialogue. The contracting authority shall indicate in the contract documents that tenders should be submitted in a sealed and stamped envelope.

7. The requests and tenders may be dispatched by electronic means in compliance with the requirements set in a 17 of this Law.

8. Upon the supplier's request, the contracting authority shall furnish a confirmation of the receipt of the supplier's request or tender by specifying the date and time of receipt.

9. The supplier may submit only one tender and where the contract is divided into lots each for each one of which a contract is intended to be awarded, the supplier shall submit to the contracting authority a tender for each lot except in cases where variants are allowed in the contract documents.

Article 29. Tender Validity Period. Modifying and Revoking Tenders

1. A tender shall be valid for a period of time specified by the supplier. The period may not be shorter than that set in the contract documents. If the tender does not specify

the period of its validity, it shall be considered to be valid for the period indicated in the contract documents.

2. As long as the tender validity period has not expired, the contracting authority may request suppliers to extending the validity period until the specified date. Any supplier may reject such a request without losing his right to the tender security.

3. A supplier who agrees to extend the tender validity period and notifies the contracting authority thereof in writing, shall extend the validity period of the tender or provide a new tender security. If the supplier fails to respond to the request made by the contracting authority as regards extension of the tender validity period, or does not extend the validity period or fails to provide a new guarantee to secure the tender, then it shall be deemed that such supplier rejected the request of the contracting authority.

4. At any time before the deadline for receipt of tenders the supplier may modify or revoke his tender without losing the right to the security of his tender. Any such modification or notification about the tender being revoked shall be deemed valid, if the contracting authority received such notification before the deadline fixed for the receipt of tenders.

Article 30. Tender Security and Security for the Performance of the Contract

1. The contracting authority may request that the effectiveness of tenders, and the performance of the contract be guaranteed by the security for the performance of obligations, established by the Civil Code of the Republic of Lithuania.

2. The contracting authority may not reject the tender security or the security for the performance of the contract on the grounds that the security was issued not by an economic entity of the Republic of Lithuania, provided that the tender security and the security for the performance of the contract and the supplier who issued the security conform to the requirements set forth in the contract documents.

3. Prior to submitting a tender, a supplier may request the contracting authority to confirm that it finds the proposed tender security acceptable. In such case the contracting authority shall respond to the supplier's request within 3 working days from the receipt of the request. Such confirmation shall not preclude the contracting authority from rejecting the tender security upon receipt of information that the issuer has become insolvent or defaulted on its obligations to the contracting authority or other economic entities, or otherwise lacks creditworthiness.

Article 31. Opening of Tenders

1. Tenders shall be opened at the meeting of the Procurement Commission. The meeting shall be held at the place and tenders shall be opened on the day, at the hour specified in the contract documents. As used in this Law, the initial examination of the tenders received by electronic means shall be equivalent to the opening of tenders. The day and the hour must coincide with the deadline for receipt of tenders. The change of the deadline for receipt of tenders shall result in the change of the date for opening tenders. At the fixed time, the Commission shall open all tenders received within the time limits fixed for their submission. All suppliers who submitted tenders or their representatives shall have the right to be present during the tender opening procedure, except in cases where the contract is awarded by way of negotiated procedure with or without publication of a contract notice.

2. If the contracting authority chose to evaluate tenders as the most economically advantageous tenders, the tenders (except in cases of contract award by negotiated procedure and competitive dialogue) shall be opened at two meetings of the Procurement Commission. The envelopes containing technical offer and other information shall be opened during the first, and envelopes with the price offers - during the second meeting of the Commission. The second meeting may take place only after the contracting authority verifies the compliance with the technical and qualification requirements against the levels fixed in the contract documents, and assesses the technical merits of the tenders and, in cases specified in this Law, the qualification of suppliers. The contracting authority shall communicate in writing the results of such verification and assessment to all suppliers concerned, indicating the time and place of the second meeting Commission. Where the contracting authority, upon verifying and assessing the data submitted by the supplier in the first envelope, rejects the tender, the unopened envelope with the price offers together with other documents submitted by the supplier shall be preserved in the manner established in Article 21 of this Law.

3. Envelopes shall be opened by one member of the Commission in the presence of the suppliers who submitted their tenders or their representatives. Envelopes shall be opened even if the supplier or its representative is not present at the meeting.

4. After opening of the envelope, all members of the Commission present at the meeting shall sign on the backside of the last page of the tender. The above provision shall not be applied if the tender is submitted by electronic means.

5. The outcomes of the opening procedure and initial examination of the tender submitted by electronic means shall be recorded into the minutes of the meeting, the compulsory prerequisites whereof shall be defined by the Public Procurement Office.

6. During the procedure of opening envelopes with technical data of the tender, the Commission shall announce the company name of the supplier and the main technical data of the tender and whether or not the tender security has been presented (if requested) to all the suppliers or their representatives present in the meeting. Should at least one supplier or its representative request so, the Commission shall announce all technical data of the tender that will be taken into account when evaluating the tenders.

7. During the procedure of opening of envelopes with price offers, the Commission shall announce the company name of the supplier and the price offered to all the suppliers or their representatives present in the meeting. In case the contract price expressed in figures does not correspond to the price expressed in words, the price given in words shall be deemed correct.

8. Where the tender is evaluated on the basis of the lowest price criterion the suppliers or their representatives in whose presence the tender is opened shall be announced the name of the supplier who submitted the tender, the price stated in the tender, as well as notified whether the tender security has been presented (where required).

9. Where the contract consists of several lots, the suppliers or their representatives participating in the tender opening procedure shall be announced the price of every lot. The prices shall be recorded in the minutes of the sitting at which envelopes with prices are opened.

10. During the opening of tenders the Commission may allow the interested suppliers or their authorised representatives, participating in the sitting, to remove the shortcomings of the binding or execution of the tenders.

11. The information announced during the envelope opening procedures shall be communicated in writing to all suppliers concerned who were not present, if they request so. Each supplier or its representative taking part in the envelope opening procedure shall have the right to examine the publicly announced information; however, when

communicating such information, the contracting authority may not disclose the confidential information provided in the tender.

12. The subsequent tender analysis, evaluation and comparison procedures shall be conducted by the Commission alone, not in the presence of the suppliers.

Article 32. Verifying Suppliers' Qualification

1. The contracting authority must verify whether a supplier is competent, reliable and capable of executing the contract. Therefore the contracting authority may define in the contract documents the minimum requirements for the qualification of candidates or suppliers (right to engage in a certain activity, financial, economic, technical and production capability) and request that candidates or suppliers provide the information and documents proving their qualification as specified in the contract documents. The minimum levels of qualification requirements shall be set following the provisions of Articles 35 to 37 of this Law.

2. The minimum levels of qualification requirements for candidates or tenderers fixed by the contracting authority may not have the restrictive effect on competition, and must be reasonable, clear and precise. The contracting authority may request from the suppliers only such information that is necessary to identify whether the supplier meets the financial, economic and technical requirements. The requirements may not prejudice the supplier's right to protect intellectual property, production or trade secrets. Requirements to the qualification, as well as to the information and documents to be supplied by the candidates or tenderers shall be set following the provisions of Articles 33, 34, 35, 37 and 38 of this Law. Upon request of the competent state or local authorities, the contracting authority must furnish the justification of the qualification requirements.

3. As necessary in a specific contract the supplier may rely on the capacities of other economic entities regardless of his legal relations with them. In such case the supplier must prove to the contracting authority that it will have at its disposal the resources for the execution of the contract. Under the same conditions a group of economic entities may rely on the capacities of the members of the group of economic entities or other economic entities.

4. Where a supplier for any valid reason is not able for any valid reason to provide the documents requested by the contracting authority, he may prove the candidate's or tenderer's economic or financial standing by any other documents or proof to the satisfaction of the contracting authority.

5. In the event the candidate or tenderer provided incomplete and imprecise qualification information, the contracting authority shall request, without prejudice to the public procurement principles, that the candidate or tenderer supplement or explain the data within a reasonable time.

6. The contracting authority shall reject the request to participate or the tender of the candidate or tenderer, if his qualification is below the minimum level of qualification established in the contract documents, or if the candidate or tenderer failed to respond to the request of the contracting authority to revise the imprecise or incomplete information about its qualification.

7. The qualification of candidates or tenderers shall be assessed on the basis of the criteria and procedures set forth in the contract documents. The Commission shall take a decision on the qualification of each candidate or tenderer, and communicate in writing the results of verification to each candidate or tenderer. Only those candidates or tenderers shall be allowed to continue in the procurement procedure, the qualification whereof meets the qualification requirements of the contracting authority.

Article 33. Conditions Prohibiting or Limiting Suppliers' Participation in Procurement Procedure

1. The contracting authority shall reject a tender and a request if the supplier has a spend or unexpunged conviction for the following criminal acts defined in Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts:

- 1) participation in a criminal organisation;
- 2) corruption;
- 3) fraud;

4) money laundering.

2. The contracting authority may establish in the contract documents that a request or a tender shall be rejected if the supplier:

1) is bankrupt, is in liquidation, has entered into an arrangement with creditors or has suspended or limited business activities or who is in any analogous situation arising from a similar procedure under the laws of the country of registration;

2) is the subject of court or out of court proceedings for a declaration of bankruptcy or for compulsory liquidation or for an arrangement with creditors or of any other similar proceedings under the laws of his country of registration;

3) has unspent or unexpunged conviction for any offence concerning his professional conduct;

4) has been guilty of grave professional misconduct proven by any means which the contracting authorities can justify;

5) has not fulfilled obligations relating to the payment of social security contributions in accordance with the legal provisions of the country of registration or the country in which the contracting authority is established;

6) has not fulfilled obligations relating to the payment of taxes in accordance with the legal provisions of the country of registration or the country in which the contracting authority is established;

7) is guilty of serious misrepresentation in supplying the information required under this Article or failure to supply the information.

3. Where the contracting authority requests the economic entity to provide proof of the absence of any of the circumstances referred to in paragraph 1 and paragraph 2 (1, 2, 3, 5, 6) of this Article, it shall accept as sufficient proof:

1) in cases referred to in paragraph 1 and paragraph 2 (1,2,3) of this Article, the production of an extract from the "judicial record" or, failing this, of an equivalent document issued by a competent judicial or administrative authority in the country of registration or the country whence that person comes showing that the requirements have been met;

2) in cases referred to of paragraph 2 (5 and 6) of this Article, a certificate issued by the competent authority of the Republic of Lithuania or the candidate's or tenderer's country of registration.

4. Where the contracting authority has doubts about the supplier's suitability it shall have the right to apply to the competent authority in order to be provided with all the required information. Where the required information is connected with the supplier from the Member State other than the contracting authority, it may apply to the relevant competent authority of the Member State.

5. Where the supplier is unable to present the documents specified in paragraph 3 of this Article as the documents are not issued in the country concerned or where these do not cover all the cases quoted in paragraphs 1 and 2 (1, 2 or 3) of this Article, they may be replaced by a declaration on oath or in the countries where there is no provision for declaration on oath, by an official declaration made by the supplier before a notary or a competent professional or trade body in the country of origin or the country whence that person comes.

6. The Public Procurement Office shall compile a list of the authorities of the Republic of Lithuania, competent to issue the documents referred to in paragraph 3, and furnish the list to the Commission of the European Communities. The Public Procurement Office shall also be responsible for submitting to the Commission of the European Communities new data on the list.

Article 34. The Candidates' and Tenderers' Right to Pursue Activity

1. A contracting authority in contract documents may request the candidates or tenderers to have the right to pursue the activity, which is necessary for performing the public contract. The candidate or tenderer may prove his right to pursue the activity by presenting certificates issued by the administrators of the relevant professional or activity registers, institutions authorised by the state, as prescribed in the member State or by the country in which they are registered, or to provide a special statement or reference evidencing their right to pursue the relevant professional activity or to provide a declaration on oath or certificate or a declaration on oath evidencing the candidate's or tenderer's right to pursue the appropriate activity..

2. In procedures for the award of public service contracts, insofar as candidates or tenderers have to possess a particular authorisation or to be members of a particular organisation in order to be able to perform in their country of origin the service concerned,

the contracting authority may require them to prove that they hold such authorisation or membership.

Article 35. Economic and Financial Standing of Candidates or Tenderers

1. The contracting authority shall have the right to specify the requirements for the economic and financial standing of the candidates or tenderers, and request to provide one or more of the following references characterising the economic and financial standing of the candidate or tenderer:

1) appropriate statements from banks or, as necessary, evidence of relevant professional risk indemnity insurance;

2) balance-sheets or extracts from the balance-sheets, where publication of the balance-sheet is required under the law of the country in which the economic entity is registered;

3) a statement of the overall turnover and, where appropriate, of turnover in the area covered by the contract for a maximum of the last 3 financial years available or since the date of registration or commencing the activity in the area concerned, where the undertaking was registered or commenced activity less than 3 years ago.

2. In the contract documents contracting authorities shall specify which reference or references the candidates or tenderers have to provide in order to prove that their financial and economic standing corresponds to the requirements of the contracting authorities.

3. If, for any valid reason, the candidate or tenderer is unable to provide the references requested by the contracting authority and specified in contract documents, he may prove his economic and financial standing by any other document which the contracting authority considers appropriate to prove that his economic or financial standing meets the necessary requirements.

Article 36. Technical and Professional Ability of Candidates and Tenderers

1. The contracting authority, taking into account the nature, quantity, or importance and use of the works, supplies or services, shall have the right to assess and examine the technical abilities of candidates and tenderers in the manner specified in this Article and

define in the contract documents the documents (one or several) to be furnished by the suppliers as evidence of technical and/or professional ability:

1) a list of the works carried out over the past five years, accompanied by certificates of satisfactory execution for the most important works; these certificates shall indicate the value, date and site of the works and shall specify whether they were carried out according to the requirements of rules regulating the performance of works and properly completed; where appropriate, the contracting authority may receive such certificates directly from the contractors;

2) a list of the principal deliveries effected or the main services provided in the past three years, with the dates, sums and recipients, whether they are contracting authorities or not, indicated. Evidence of delivery and services provided shall be given by the candidates or tenderers: where the recipient was a contracting authority, in the form of the certificate countersigned by it, where the recipient is not the contracting authority, by the entity's certification or, failing this, simply by a declaration by the candidate or tenderer;

3) an indication of the technicians or technical bodies involved, whether or not belonging directly to the candidate's or tenderer's undertaking, especially those responsible for quality control and, in the case of public works contracts, those technicians or technical bodies upon whom the contractor may call in order to carry out the work;

4) a description of the technical facilities and measures used by the supplier or service provider for ensuring quality and the undertaking's study and research facilities;

5) where the products or services to be supplied are complex or, exceptionally, are required for a special purpose, a check carried on the candidate's or tenderer's production capacities or technical abilities of service provision and, if necessary, on the means of study and research which are available to it and the quality control measures it will operate;

6) the educational and professional qualifications of the service provider or contractor and/or those of the undertaking's managerial staff and, in particular, those of the person or persons responsible for providing the services or managing the work;

7) for public works contracts and public services contracts, and only in appropriate cases, an indication of the environmental management measures that the economic entity will be able to apply when performing the contract;

8) a statement of the average annual manpower of the service provider or contractor and the number of managerial staff for the last three years;

9) a statement of the tools, plant or technical equipment available to the service provider or contractor for carrying out the contract;

10) an indication of the proportion of the contract, which the services provider intends possibly to subcontract;

11) samples, descriptions and photographs of products, the authenticity of which must be certified by the candidate or tenderer if the contracting authority so requests;

12) certificates issued by official quality control institutions agencies of recognised competence attesting the conformity of products clearly identified by references to specifications or

standards. The contracting authority shall recognise the certificates issued by competent bodies accredited in Member States, attesting the quality of products, services or works.

2. In procedures for awarding public contracts having as their object supplies requiring siting or installation work, the provision of services or the execution of works, the ability of the supplier to provide the service or to execute the installation or other works may be evaluated in particular with regard to the supplier's skills, efficiency, experience and reliability.

Article 37. Quality Assurance and Environmental Management Standards

1. The contracting authority shall have the right to require the production by the candidate or tenderer of certificates issued by independent body attesting the compliance by the candidate or tenderer with certain quality assurance standards. For that purpose

the contracting authority shall refer to quality assurance systems based on the relevant European standards series certified by bodies conforming to the European standards series concerning certification. The contracting authority shall recognise equivalent certificates from bodies established in other Member States. It shall also accept other evidence of equivalent quality assurance measures from candidates or tenderers.

2. Should contracting authorities, in public works contracts and public services contracts in the case referred to in subparagraph 7 of paragraph 1 require the production of certificates issued by independent bodies attesting compliance of the supplier with certain environmental management standards, they shall refer in the contracts documents to the Community Eco-Management and Audit Scheme (EMAS) or to environmental management standards based on the relevant European or international standards certified by bodies conforming to Community law or the relevant European or international standards concerning certification. The contracting authorities shall recognise equivalent certificates from bodies established in other Member States. They shall also accept other evidence of equivalent environmental management measures from the suppliers.

Article 38. Official Lists of Approved Suppliers

1. In order to more speedily assess compliance by the suppliers' qualification with the established requirements, official lists of approved contractors, suppliers or service providers meeting the qualification requirements may be drawn up. Official lists of approved suppliers shall be drawn up by the competent authority (institutions) designated by the Government of the Republic of Lithuania. The Government of the Republic of Lithuania or an institution authorised by it shall approve the rules for entering the suppliers in the official lists.

2. The requirements for registration on the official lists of approved suppliers shall be set in compliance with the provisions contained in paragraph 1 of Article 33, subparagraphs 1 to 4 and 7 of paragraph 2 of Article 33, a 33, Articles 34, 35, 36 paragraph 1 and, where appropriate, paragraph 2 of Article 37 of this Law. As regards applications for registration submitted by economic entities belonging to a group and claiming resources made available to them by the other companies in the group. In such

case, these entities must prove to the authority establishing the official list that they will have these resources at their disposal throughout the period of validity of the certificate attesting to their being registered in the official list and that throughout the same period these economic entities continue to fulfil the qualitative selection requirements on which economic entities rely for their registration in the list.

3. The competent bodies shall register suppliers on official lists on their request provided that they meet the requirements set for them in paragraph 2 of this Article. Lithuanian suppliers and suppliers from other Member States shall be registered on equal conditions. The institution shall forthwith notify suppliers of the taken decision.

4. The supplier registered on the official lists of approved suppliers may, for each contract, submit to the contracting authority a certificate of registration on the official lists of approved suppliers issued by the competent authority. The certificates shall state the references, which enabled the supplier to be registered in the list and the classification given in that list.

5. With regard to the payment of social security contributions and taxes, an additional certificate may be required by the contracting authority of any supplier registered on the official list.

6. The contracting authority may not be obliged require that the suppliers undergo such registration in order to participate in a public contract. The contracting authorities shall recognise equivalent certificates from competent authorities of other Member States and may not question them without justification. The supplier may also present documents as proof that his qualification is in compliance with the requirements set by the contracting authority.

7. The authorities referred to in paragraph 1 of this Law shall be obliged to inform the Commission of the European Communities and the other Member States of their address.

Article 39. Evaluation and Comparison of Tenders

1. The contracting authority may request the tenderers to explain their tenders. However, the contracting authority may not request, suggest or allow changing the subject matter of the tender submitted by open or restricted procedure, including the price or any other material changes, due to which an irregular tender would become acceptable. This provision is not applicable in the process of verifying the qualification of the candidates or tenderers. When awarding contracts by way of negotiations with or without publication of a contract notice, the price and other contract conditions may be negotiated, but the result of negotiations documented in the record of negotiations may not be changed

2. The contracting authority shall reject the tender, if:

1) the tenderer who submitted it fails to meet the minimum qualification requirements set out in the contract documents;

2) the tender fails to meet the requirements set forth in the contract documents;

3) all tenderers offered too high prices, which are unacceptable for the contracting authority;

3. Where the contracting authority has to reject all tenders it must obtain the consent of the Public Procurement Office to do so.

4. The criteria on which the contracting authority shall base the award of contracts shall be:

1) when award is made to the most economically advantageous tender for the contracting authority, various criteria directly linked to the subject of the public contract in question: for example, quality, price, technical merit, aesthetic and functional characteristics, environmental characteristics, running costs, cost-effectiveness, after-sales service and technical assistance, delivery date, delivery period or period of completion;

2) the lowest price only.

5. In the case referred to in, subparagraph 1 of paragraph 4 of this Article the contracting authority shall specify, in the contract documents, the relative weighting which it gives to each of the criteria chosen to determine the most economically advantageous tender. This weighting can be expressed by providing for a range within which the value attributed to each criterion shall be stated. In exceptional cases, where the purpose of procurement does not allow technically establishing the relative weight of the criteria, the

contracting authority shall specify the priority order (order of importance) of the evaluation criteria in the tender documents.

6. Where the contracting authority evaluates tenders by their economic advantage, it shall first verify and assess the technical data of the tender, and, after communicating the results of such verification and assessment to the suppliers, proceed with the overall evaluation of the tenders by taking into account the price.

7. The contracting authority shall select the successful tenderer in the following sequence:

1) applying the tender evaluation criteria and procedure set forth in the contract documents, the contracting authority shall evaluate the tenders submitted by the tenderers and produce a preliminary ranking of tenders (this does not apply in cases where only one supplier is invited to tender or the tender is submitted by only one supplier). The preliminary ranking shall be done in the decreasing order of the tenderer's performance to the satisfaction of the contracting authority and by any appropriate means that the work, product or service in compliance with the standard meets the performance or functional requirements of the contracting authority in order of economic advantage or increasing order of prices. When the tender evaluation criteria is the lowest price offered and several tenders offering the same price are submitted, the preliminary ranking of tenders shall be produced putting the tenderer who was the first to register the envelope containing his tender first in the ranking order;

2) the contracting authority shall immediately inform the tenderers about the preliminary ranking of tenders and the tenderers whose tenders have not been ranked shall be notified of the reasons of rejecting their tenders, including rejection of the tender due to their inequality and failure to meet the performance and functional requirements specified by the contracting authority as indicated in article 25 of this Law;

3) the contracting authority may approve the preliminary ranking and make a decision regarding the successful tenderer only after all claims and complaints filed by the tenderers (if any) are settled in accordance with the procedure prescribed in this Law, but not earlier than 10 days after the date of dispatch of the preliminary ranking information to the tenderers. The provision shall not apply in case the tender is submitted by only one supplier.

Article 40. Abnormally Low Tenders

1. If, for a given contract, tenders appear to be abnormally low in relation to the supplies, works or services, the contracting authority shall request the tenderer to justify the offered price, and if the tenderer fails to produce justification to the satisfaction of the contracting authority, it shall reject the tender.

2. In order to obtain justification of the abnormally low price, the contracting authority shall request in writing that the tenderer concerned provides details of the constituent elements of the tender which it considers relevant, price elements and calculations. The contracting authority shall take into consideration explanations relating to:

1) the efficiency of the manufacturing process, of the services provided and of the construction method;

2) the technical solutions chosen and/or the exceptionally favourable conditions available to the tenderer for the supply of the supplies and services, and the execution of the work;

3) the originality of the supplies, services or work proposed by the tenderer;

4) the compliance with the regulations on safety at work and working conditions, valid in the place of provision of supplies, services or performance of works;

5) the possibility of the tenderer benefiting from the State aid.

3. Where the contracting authority establishes that a tender is abnormally low on the grounds that the tenderer has obtained a State aid, the tender can only be rejected after consultation with the tenderer where the latter is unable to prove, within a sufficient time frame fixed by the contracting authority, that the aid in question was granted lawfully. Upon rejecting the tender on the said grounds the contracting authority shall notify the Commission of the European Communities thereof. or that the aid in question was granted with the consent of the Commission of the European Communities. State aid shall be any measure corresponding to the criteria set in paragraph 1 of Article 87 of the Treaty Establishing the European Community.

Article 41. Informing Candidates and Tenderers about Results

1. The contracting authority shall as soon as possible, but not later than within 5 working days inform of decisions reached concerning the award of the contract, the

conclusion of a framework agreement, or admittance to a dynamic purchasing system, including the grounds for any decision not to conclude a framework agreement or award a contract or to recommence the procedure or implement a dynamic purchasing system. That information shall be given in writing upon request to the contracting authorities.

2. The contracting authority shall as soon as possible, but not later than within 15 days after receipt of the written request, inform:

- 1) any candidate of the reasons for rejection of his request;
- 2) any tenderer who has made an admissible tender of the characteristics and relative advantages of the tender selected as well as the name of the successful tenderer and of the parties to the framework agreement.

3. The contracting authority may decide to withhold certain information on the contract award, referred to in paragraph 2 of this Article, where release of such information would impede law enforcement or otherwise be contrary to the public interest or would prejudice the legitimate commercial interests of suppliers or might prejudice fair competition between them.

4. Where the contracting authority requested in the contract documents to provide samples of the products, it shall, after the preliminary ranking of tenders, allow all the candidates or tenderers to examine the samples presented.

5. Access to the information relating to the examination, explication, evaluation and comparison of tenders shall be granted only to the Commission members and experts invited by the Commission, representatives of the Public Procurement Office, the head of the contracting authority, persons authorised by him, other persons and institutions entitled under the laws of the Republic of Lithuania to have access to such information.

Article 42. Types of Award Procedures

1. The supplies, services or works contracts may be awarded by means of the following procedures:

- 1) open procedure;
- 2) restricted procedure;
- 3) competitive dialogue procedure under the conditions set in Article 50 of this Law
- 4) negotiated procedure with or without publication of a contract notice.

2. When awarding a public contract, the contracting authority may use:

1) the open or restricted tender procedures in all cases without limitations. These are the main type of award procedure;

2) the competitive dialogue procedure if the conditions specified in Article 55 are present.

3) the negotiated procedure with publication of a contract notice, if the conditions specified in Article 44 are present;

4) the negotiated procedure without publication of a contract notice, if the conditions specified in Article 56 are present.

3. In the presence of the conditions referred to in Article 67 of this Law, the contracting authority may use the design contest procedure.

SECTION TWO OPEN PROCEDURE

Article 43. Open Procedure

1. The number of tenderers in the open procedure shall be unlimited. The contracting authority shall evaluate the tenders submitted as prescribed by the contract documents by all suppliers who meet the minimum qualification requirements.

2. Negotiations between the contracting authority and suppliers are not allowed in the open procedure.

3. The open procedure shall occur if at least one tender meeting the requirements set forth in the contract documents is received.

Article 44. Time Limits in the Open Procedure

1. The contracting authority shall fix the final time limit for the receipt of tenders by following provisions of Article 28 of this Law.

2. The final time limit fixed for the receipt of tenders may not be shorter than 52 days from the day of dispatch of the contract notice from the Public Procurement Office.

3. If the contracting authority published PIN at least 52 days but not more than 12 months before starting the procedures, and provided the information about the contract in the manner prescribed by paragraph 1 of Article 22 of this Law, then the time limits specified in paragraph 2 of this Article may be reduced to 36 days. In case of emergence of circumstances unforeseeable by the contracting authority the time limit may be shorter

than 36 days but not less than 22 days from the day of dispatch of the notice from the Public Procurement Office.

4. If the contracting authority draws up and transmits the notice by electronic means the time limit for the receipt of tenders referred to in paragraph 2 and 3 of this Article may be shortened by 7 days.

5. The time limits for receipt of tenders referred to in paragraph 2 of this Article may be reduced by five more days where the contracting authority offers unrestricted and full direct access by electronic means to the contract documents and any supplementary documents from the date of publication of the notice in accordance with the procedure prescribed by this Law specifying in the text of the notice the internet address at which this documentation is accessible.

SECTION THREE RESTRICTED PROCEDURE

Article 45. Restricted Procedures

1. The contracting authority shall conduct the restricted procedures in two phases:
 - 1) following the procedure set forth in Articles 22 and 23, the contracting authority shall publish the contract notice and, on the basis of the criteria specified therein, select the candidates to be invited to submit their tenders;
 - 2) following the requirements set forth in the contract documents, the contracting authority shall analyse, evaluate and compare the tenders submitted by the invited tenderers.
2. Negotiations between the contracting authority and suppliers are not allowed in the restricted procedure.
3. The restricted procedure shall occur if at least one tender meeting the requirements set forth in the contract documents is received.

Article 46. Time Limits for Submission of Requests to Participate and Tenders

1. The contracting authority shall fix the final time limits for submission of requests to participate and tenders by following provisions of Article 28 of this Law.

2. The final time limit fixed for submission of requests to participate may not be shorter than 37 days from the day of dispatch of the notice from the Public Procurement Office.

3. The time limit for submission of tender may not be shorter than 40 days after the invitations to tender are dispatched to suppliers.

4. If the contracting authority published PIN at least 52 days but not more than 12 months before starting the procurement procedures, and provided the information about the contract in the manner prescribed by Article 22 of this Law, then the time limits specified in paragraph 3 of this Article may be reduced to 36 days. In case of emergence of circumstances unforeseeable by the contracting authority the time limit may be shorter than 36 days but not shorter than 22 days from the dispatch of the notice from the Public Procurement Office.

5. Where the notice is drawn up and transmitted by electronic means, the time limits for submitting requests to participate referred to in paragraph 2 of this Article may be reduced by 7 days and where the contracting authority offers unrestricted and full direct access by electronic means to the contract documents specifying in the text of the notice the internet address at which this documentation is accessible, the time limit for submitting tenders, as specified in paragraph 3 of this Article, may be shortened by 5 more days.

6. In case of urgency, where it is not possible to keep to the time limits specified in this Article, the contracting authority shall have the right to carry out the simplified restricted procedure and to fix a time limit for submitting requests of at least 15 days from the day the notice is dispatched from the Public Procurement Office or at least 10 where the notice was dispatched by electronic means and a time limit for submitting tenders of at least 10 days from the day of dispatch to the suppliers of the invitation to tender. The contracting authority shall state in the notice valid reasons for conducting simplified procurement procedure.

Article 47. Selection of candidates

1. The contracting authority may fix in the contract documents (contract notice) a minimum and maximum number of candidates to be invited to submit tenders, as well as define the selection criteria and procedure to be used.

2. When fixing the number of candidates and defining the selection criteria or procedure, the contracting authority shall follow the following requirements:

- 1) the contracting authority must ensure the genuine competition;
- 2) the selection criteria must be clear and non-discriminatory;
- 3) the selection criteria should be based on the provisions of Articles 35 to 38.

3. The minimum number of candidates to be invited to tender shall be not less than 5.

4. When selecting candidates, the contracting authority shall apply only those selection criteria and procedure that are specified in the contract documents. The contracting authority shall make the selection only from those candidates who meet the minimum qualification requirements set forth by the contracting authority.

5. Contracting authorities shall invite the number of candidates that is equal to the specified minimum number of candidates. Should the number of candidates meeting the minimum qualification requirements be less than the number of candidates to be invited, the contracting authority shall invite all candidates meeting the minimum qualification requirements to submit their tenders. During the procedure the contracting authority may not invite to participate in the procurement other suppliers who have not submitted requests to participate or candidates who do not meet the minimum qualification requirements.

Article 48. Submission of Requests to Participate in the Selection

1. Requests to participate may be submitted both by an individual economic entity, or a group of economic entities as defined in paragraph 2 of Article 5 of this Law.

2. Requests to participate shall be made following the requirements outlined in paragraph 8 of Article 17 of this Law by enclosing the information and documents required by the contracting authority.

3. In the accelerated form of restricted procedures referred to in paragraph 6 of Article 46 of this Law, the contracting authority shall indicate in the contract documents that requests must be submitted by fax or electronic means.

Article 49. Invitations to Submit Tenders

1. The contracting authority shall invite the candidates selected according to Article 47 to submit their tenders.

2. The contracting authority shall send invitations to all the selected suppliers simultaneously in writing.

3. The contract documents shall be enclosed with the invitation to submit tenders or the address where all the contract documents are available if the contracting authority provides to the candidates a possibility of unrestricted and direct access to them by electronic means.

4. Where the contract documents are held not by the contracting authority but by the authorised body, the invitation shall indicate the address where to apply for requesting the documents and in appropriated cases the final date for requesting for the documents, the amount payable for the receipt of the documents and the payment procedure. Moreover, enclosed with the invitation to submit tenders must contain the following information:

- 1) a reference to the published contract notice;
- 2) address where the remaining contract documents can be obtained and the sum payable, if any, for obtaining them, including the manner of payment;
- 3) the final date for the submission of the tenders, the address to which the tenders must be sent and the language or languages in which the tenders must be drawn up;
- 4) the documents specified by the contracting authority that the suppliers must present regarding their qualification;
- 5) tender evaluation procedure, evaluation criteria and their relative weighting, where appropriate, the descending order of importance for such criteria, if they are not given in the contract notice, the specifications or the descriptive documents;
- 6) any other information that the contracting authority deems necessary.

5. In the accelerated form of restricted procedures as prescribed by paragraph 6 of Article 46 of this Law invitations to submit tenders transmitted by fax or electronic means..

SECTION FOUR COMPETITIVE DIALOGUE

Article 50. Conditions of Competitive Dialogue

1. Where contracting authorities consider that the use of the open or restricted procedure will not allow the award of the of particularly complex contract, the latter may make use of the competitive dialogue provided that any of the following conditions is present:

1) the contracting authorities are not objectively able to define the technical means of the object of procurement in accordance with subparagraphs 2, 3 and 4 of paragraph 3 of Article 25, capable of satisfying their needs or objectives;

2) the contracting authorities are not objectively able to specify the legal or financial make-up of the object of procurement.

2. A public contract shall be awarded by using the competitive dialogue on the sole basis of the award criterion for the most economically advantageous tender.

3. The contracting authority may establish prizes and payments to participants in the competitive dialogue.

Article 51. Conduct of the Competitive Dialogue

1. The contracting authority shall publish a notice of the contract in the manner set forth in Articles 22 and 23 of this Law and shall make known its needs and requirements in that notice and/or in a descriptive document.

2. The contracting authority shall open, with the candidates selected in accordance with the relevant provisions of Articles 54, a dialogue the aim of which shall be to identify and define the means best suited to satisfying the needs of the contracting authority. The contracting authority may discuss all aspects of the contract with the chosen candidates during this dialogue.

3. The contracting authority may provide for the procedure to take place in successive stages in order to reduce the number of solutions to be discussed during the

dialogue stage by applying the award criteria in the contract notice or the descriptive document. The contract notice or the descriptive document shall indicate that recourse may be had to this option.

4. The contracting authority shall continue such dialogue until it can identify the solution or solutions, if necessary after comparing them, which are capable of meeting its needs.

5. Having declared that the dialogue is concluded and having so informed the participants, the contracting authority shall ask them to submit their final tenders on the basis of the solution or solutions presented and specified during the dialogue. These tenders shall contain all the elements required and necessary for the performance of the contract. These tenders may be clarified, specified and fine-tuned at the request of the contracting authority. However, such clarification, specification, fine-tuning or additional information may not involve changes to the basic features of the tender or the call for the participation in the dialogue, variations in which are likely to distort competition or have a discriminatory effect with respect to suppliers.

6. The contracting authority shall assess the tenders received on the basis of the award criteria laid down in the contract notice or the descriptive document and shall choose the most economically advantageous tender. At the request of the contracting authority, the tenderer identified as having submitted the most economically advantageous tender may be asked to clarify aspects of the tender or confirm commitments contained in the tender provided this does not have the effect of modifying substantial aspects of the tender or of the call for tender and does not risk distorting competition or causing discrimination.

7. During the dialogue, the contracting authority shall:

- 1) conduct the dialogue with each supplier separately;
- 2) not reveal to other participants information communicated by the supplier participating in the dialogue without his/her agreement, also not reveal to the supplier information about the agreements reached with other suppliers;

3) ensure equality of treatment among all tenderers. In particular, the contracting authority shall not provide information in a discriminatory manner which may give some tenderers an advantage over others;

4) complete minutes shall be drawn up of the dialogue. The minutes of the dialogue shall be signed by the chairman of the Commission and the authorised representative of the tenderer who has been consulted.

Article 52. Time Limits for Submission of Requests to Participate in the Competitive Dialogue

1. The contracting authority shall fix the time limits for submission of requests to participate in the competitive dialogue according to the provisions of Article 28 of this Law.

2. The time limit for submission of requests to participate in the competitive dialogue shall not be shorter than 37 days from the day of dispatch of the notice from the Public Procurement Office. The time limit may be shortened by 7 days if the contract notice is dispatched by electronic means.

Article 53. Pre-qualification Selection of Candidates to the Competitive Dialogue

1. The pre-qualification selection of candidates to be invited to participate in the dialogue shall be conducted according to the provisions of Article 47 of this Law.

2. Where the number of the suitable candidates is sufficient the contracting authority shall have the right to limit the number of candidates to be invited to participate in the competitive dialogue. The contracting authority shall indicate in the contract notice objective and non-discriminatory criteria and rules which it intends to apply when selecting the candidates, the minimum number of candidates invited to participate in the dialogue which shall be not less than 3 and, where necessary, their maximum number.

3. The contracting authority shall invite to the shall invite a number of candidates at least equal to the minimum number set in advance. Where the number of candidates meeting the selection criteria and the minimum levels of ability is below the minimum

number, the contracting authority may continue the procedure by inviting the candidate(s) with the required capabilities. In the context of this same procedure, the contracting authority may not include other suppliers who did not request to participate, or candidates who do not meet the minimum qualification requirements.

Article 54. Invitation to Take Part in the Competitive Dialogue

1. The contracting authority shall simultaneously and in writing invite the candidates selected according to the procedure established in Article 53 to take part in the competitive dialogue.

2. The invitation to the candidates shall include either a copy of the specifications or of the descriptive document and any supporting documents, or a reference to accessing the specifications and the other documents, when they are made directly available by electronic means in accordance with this Law. In addition, the invitation to participate in the dialogue must contain at least:

- 1) a reference to the contract notice published;
- 2) in the case of competitive dialogue the date and the address set for the start of dialogue and the language or languages used;
- 3) a reference to any possible adjoining documents to be submitted, in support of verifiable qualifications established by the contracting authority;
- 4) tender evaluation procedure, evaluation criteria, the relative weighting of criteria for the award of the contract or, where appropriate, the descending order of importance for such criteria, if they are not given in the contract notice, the specifications or the descriptive document;
- 5) other information deemed necessary by the contracting authority.

3. Where an authorised body and not the contracting authority has the contract documents, the invitation to participate in the dialogue shall state the address from which those specifications, that descriptive document and those documents may be requested

and, if appropriate, the deadline for requesting such documents, and the sum payable for obtaining them and any payment procedures.

SECTION FIVE NEGOTIATED PROCEDURE

Article 55. Conditions of the Negotiated Procedure with Publication of a Contract Notice

1. Public contracts may be awarded by negotiated procedure, after publication of a contract notice, in the presence of at least one of the following conditions:

1) in the event of the submission of tenders which are unacceptable in response to an open or

restricted procedure or a competitive dialogue insofar as the original terms of the contract are not substantially altered;

2) in exceptional cases, when the nature of works, supplies or services or the risks attaching thereto do not permit prior overall pricing;

3) in the case of services, *inter alia* services within category 6 of Annex II A, and intellectual services such as services involving the design of works, insofar as the nature of the services to be provided is such that contract specifications cannot be established with sufficient precision to permit the award of the contract by selection of the best tender according to the rules governing open or restricted procedures;

4) in respect of public works contracts, for works which are performed solely for purposes of research, testing or development and not with the aim of ensuring profitability or recovering research and development costs.

Article 56. Conditions of the Negotiated Procedure without Publication of a Contract Notice

1. Public supply contracts, public service contracts and public works contracts may be awarded by a negotiated procedure without prior publication of a contract notice provided at least one of the following conditions is present:

1) when no tenders or no suitable tenders have been submitted in response to an open or a restricted procedure or a competitive dialogue, provided that the initial conditions of contract are not substantially altered and all suppliers meeting the minimum qualification requirements set by the contracting authority are invited to negotiate;

2) when no tender or no suitable tender has been submitted in response to an open procedure or restricted procedure, whereas the initial conditions of contract are not substantially altered and provided that the European Communities Commission is upon its request given a detailed report about such contract;

3) when, for technical or artistic reasons, or for reasons related to the protection of exclusive rights, the supplies may be delivered, service rendered or works performed only by a particular economic entity;

4) in so far as it is strictly necessary, for reasons of extreme urgency brought about by events unforeseeable by the contracting authority in question, the time limit fixed in this Law for the open, restricted or negotiated procedures with publication of a contract notice cannot be kept. The circumstances invoked to justify extreme urgency must not in any event be attributable to the contracting authority.

2. As regards public supply contracts, contracting authorities may award public contracts by a negotiated procedure without prior publication of a contract notice under any of the following conditions:

1) when the products involved are manufactured purely for the purpose of research, experiment, study or development, this provision does not extend to quantity production to establish commercial viability or to recover research and development costs;

2) for additional deliveries by the original supplier which are intended either as a partial replacement of normal supplies or installations or as the extension of existing supplies or installations where previous contracts were effective, there is no substantial change in the prices and other conditions and a change of supplier would oblige the contracting authority to acquire material having different technical characteristics which would result in incompatibility or disproportionate technical difficulties in operation and

maintenance: the length of such contracts as well as that of recurrent contracts may, as a general rule, not exceed three years following the award of the initial contract;

3) for supplies quoted and purchased on a commodity market;

4) for the purchase of supplies on particularly advantageous terms, from either a supplier which is definitively winding up its business activities, or the receivers or liquidators of a bankruptcy, an arrangement with creditors, or a similar procedure under other laws or regulations.

3. As regards public service contracts, when the contract concerned follows a design contest and shall be awarded to the successful candidate or to one of the successful candidates: in the latter case, all successful candidates shall be invited to participate in the negotiations.

4. As regards public service and works contracts, the negotiated procedure without publication of a contract notice may be applied under any of the following conditions:

1) for additional services or works not included in the project initially considered or in the contract first concluded but which have, through unforeseen circumstances, become necessary for the performance of the services or works described therein, when such additional services or works cannot be technically or economically separated from the main contract without major inconvenience to the contracting authority. However, such contract may only be concluded with the economic entity to whom a first contract was awarded and the aggregate value of contracts awarded for additional services or works may not exceed 50% of the amount of the main contract.

2) for new services or works consisting in the repetition of similar services or works entrusted to the economic entity to which the same contracting authorities awarded an earlier contract, provided that such services or works conform to a basic project for which a first contract was awarded according to the open or restricted procedures. As soon as the first project is put up for tender, notice must be given that this procedure might be adopted and the total estimated cost of subsequent services or works shall be taken into consideration by the contracting authority. This procedure may only be adopted during the three years following the conclusion of the original contract.

Article 57. Conducting the Negotiated Procedure with or without Publication of a Contract Notice

1. The contracting authority shall conduct the negotiated procedure with publication of a contract notice in the following phases:

1) according to the procedure set forth in Articles 22 and 23 of this Law invite candidates to submit requests to participate in the negotiated procedure with the publication of a contract notice;

2) verify qualification of the candidates who submitted requests against the minimum requirements set forth in the contract documents, and perform the selection of candidates, where applicable;

3) invite candidates to submit tenders and negotiate with each one of them according to the conditions set forth in Article 58 of this Law aiming at the highest economic advantage according to the requirements set in contract documents. The contracting authority may provide for the negotiated procedure to take place in successive stages in order to reduce the number of tenders to be negotiated. The contract notice or other contract documents shall indicate whether recourse has been had to this option;

4) on the basis of the tender evaluation procedure and criteria specified in the contract documents, and on the results of negotiations documented in the tenders and the minutes of the negotiations, identify the best tender.

2. When applying the negotiated procedure without publication of a contract notice, the contracting authority shall:

1) where more than one candidate is invited to negotiate - verify if the qualification of candidates meets the specified criteria, negotiate the technical, economic, legal and other aspects of the tender aiming at the highest economic advantage, and, based on the results of negotiations and the criteria specified in the contract documents, identify the successful tender;

2) when only one candidate is invited to negotiate - verify if the qualification of the candidate meets the specified criteria, and negotiate the technical, economic, legal and other aspects of the tender aiming at the highest economic advantage. In case of negotiations without publication of a contract notice, when only one candidate is invited, the contracting authority shall not be obliged to give to the candidate all the information

referred to in Article 24 of this Law, if the contracting authority deems that some items of information are not necessary.

3. The negotiated procedure shall be deemed to have been conducted if there is at least one supplier, whose initial tender and the results of negotiations comply with the requirements set forth in the contract documents.

Article 58. Requirements with respect to the Negotiated Procedure with or without Publication of a Contract Notice

1. During the negotiated procedures, the contracting authority shall comply with the following requirements:

- 1) negotiations shall be held with each candidate separately;
- 2) no information obtained from the supplier may be revealed to the third parties without the prior consent of the supplier; the contracting authority may not disclose any information about the solutions proposed by other suppliers;

3) all tenderers shall be subject to the same requirements, shall be provided with equal opportunities and with the same information; the contracting authority shall not provide information in a discriminatory manner which may give some tenderers an advantage over others.

4) the proceedings of the negotiation shall be recorded in the minutes, to be signed by the chairperson of the Commission and the authorised representative of the tenderer with whom negotiations were held.

2. The contracting authority shall negotiate separately with each tenderer who submitted a tender complying with the requirements set forth in the contract documents, and shall identify the acceptable tender following the provisions of Article 39 of this Law.

3. The tender of the supplier who failed to come to the negotiations without a valid reason shall be rejected.

Article 59. Time Limits for Submission of Requests to Participate and Tenders in Case of the Negotiated Procedure with Publication of a Contract Notice

1. The contracting authority shall fix the final time limits for submission of requests to participate and tenders following provisions of Article 28 of this Law.

2. The time limit for submission of requests to participate may not be shorter than 37 days from the day of dispatch of the notice from the Public Procurement Office. Where the contract notice is dispatched by electronic means the time limit may be shortened by 7 days.

3. If it is not possible to keep to the time limits specified in this Article (cases of urgency), the contracting authority shall have the right to apply accelerated procedure for conducting negotiations and to fix an at least 15 days time limit from the day of dispatch of the notice from the Public Procurement Office for submitting the requests or an at least 10 days time limit where the notice was dispatched by electronic means. In the contract notice the contracting authority shall specify the reasons to justify the use of the accelerated procedure.

Article 60. Selection of Candidates according to Qualification Criteria in the Negotiated Procedure with Publication of the Contract Notice

1. In cases of negotiated procedure with publication of the contract notice, the contracting authority may limit the number of candidates to be invited according to the rules set forth in Article 47 (except for paragraph 3). The minimum number of candidates to be invited to participate in the negotiated procedure and specified in the contract documents (contract notice or invitation to tender) shall be not less than 3.

2. The selection of candidates according to qualification who will be invited to participate in the negotiated procedure shall be conducted according to the provisions of Article 47 of this Law.

Article 61. Submission of Requests to Participate in Negotiated Procedure with Publication of a Contract Notice

1. Requests to participate in negotiated procedure with publication of a contract notice shall be submitted according to the requirements set in paragraph 8 of Article 17 of this Law. The contracting authority shall specify in the contract documents that requests to participate in the negotiated procedure must be accompanied by information and documents according to the requirements specified in the contract notice.

3. In the accelerated form of negotiated procedure with publication of a contract notice specified in paragraph 3 of Article 59 of this Law, the contracting authority shall

specify in the contract documents that requests for participation must be made by fax or electronic means.

Article 62. Invitation to Negotiate

1. In the negotiated procedure with publication of a contract notice, the contracting authority shall send simultaneously invitations to negotiate in writing to all candidates selected according to the provisions of Article 60 of this Law, or, if there was no pre-qualification selection, to all candidates who meet the minimum qualification requirements.

2. A copy of the contract documents shall accompany the invitation to participate in the negotiations or a reference shall be provided to accessing the documents where the suppliers are offered by electronic means an unrestricted and direct access according to the procedure set forth in this Law to all contract documents. In addition the invitation to negotiate shall contain at least the following information:

1) in case of the negotiated procedure with publication of a contract notice - a reference to the publication of a contract notice;

2) address from which the remaining contract documents may be requested, and the sum payable, if any, for obtaining them, as well as the manner of payment;

3) the final date for the receipt of consents to negotiate, the address to which the consents must be sent and the language or languages to be used in the procedures, if the information was not submitted;

4) additional documents to be submitted by suppliers to prove the qualification;

5) tender evaluation procedure, evaluation criteria and their relative weight in the total score, rules and procedures of evaluation their relative weighting, where appropriate, the descending order of importance for such criteria, if they are not given in the contract notice, the specifications or other contract documents;

6) any other information that the contracting authority deems necessary.

3. Where the contract documents are held not by the contracting authority but by the authorised body, the invitation shall indicate the address where to apply for requesting the documents and in appropriated cases the final date for requesting for the documents, the amount payable for the receipt of the documents and the payment procedure.

4. In the accelerated form of negotiated procedure with publication of a contract notice specified in paragraph 3 of Article 59 of this Law, the contracting authority shall specify in the contract documents that requests for participation must be made by fax or electronic means.

SECTION SIX FRAMEWORK AGREEMENTS

Article 63. Framework Agreement

1. The contracting authority (authorities) shall have the right to conclude framework agreement with one or several suppliers.

2. The contracting authority shall comply with the requirements of this Law both when concluding the framework agreement and when awarding contracts on its basis.

3. When awarding contracts based on the framework agreement the contracting authority For the purpose of concluding a framework agreement, contracting authorities shall comply with the requirements set forth in paragraphs 7, 8, 9,10 of this Article. The contracts may only be awarded to the suppliers who are parties to the framework agreement.

4. When awarding contracts based on a framework agreement, the parties may under no circumstances make substantial amendments to the terms laid down in that framework agreement.

5. The term of a framework agreement may not exceed four years, save in exceptional cases duly justified, in particular by the subject of the framework agreement.

6. Contracting authorities may not use framework agreements improperly or in such a way as to prevent, restrict or distort competition.

7. Where a framework agreement is concluded with a single supplier, contracts based on that agreement shall be awarded within the limits of the terms laid down in the framework agreement. For the award of those contracts, contracting authorities may

consult the supplier party to the framework agreement in writing, requesting it to supplement its tender as necessary.

8. Where a framework agreement is concluded with several suppliers, the latter must be at least three in number, insofar as there is a sufficient number of suppliers to satisfy the selection criteria and/or of admissible tenders which meet the award criteria.

9. Contracts based on framework agreements concluded with several suppliers may be awarded either:

1) by application of the terms laid down in the framework agreement without reopening competition,

2) where not all the terms are laid down in the framework agreement, when the parties are again in competition on the basis of the same and, if necessary, more precisely formulated terms, and, where appropriate, other terms referred to in paragraph 10 of this Article of the framework agreement where all terms of public contract were not specified in the framework agreement.

10. When the parties are again in competition, the contracting authority:

1) for every contract to be awarded, shall consult in writing the suppliers capable of performing the contract;

2) shall fix a time limit, which is sufficiently long to allow tenders for each specific contract to be submitted, taking into account factors such as the complexity of the subject-matter of the contract and the time needed to send in tenders;

3) shall ensure that the content of tenders remains confidential until the stipulated time limit for reply has expired;

4) shall award each contract to the tenderer who has submitted the best tender on the basis of the award criteria set out in the framework agreement.

SECTION SEVEN

OTHER PROCUREMENT PROCEDURES

Article 64. Dynamic Purchasing System

1. The contracting authority may use dynamic purchasing systems. Applying a dynamic purchasing system and awarding the contracts under this system, the contracting authority shall make use only of electronic means.

2. In order to set up a dynamic purchasing system, contracting authority shall follow the rules of the open procedure in all its phases up to the award of the contracts to be concluded under this system. All the tenderers satisfying the selection criteria and having submitted an indicative tender which complies with the contract documents shall be admitted to the system. An indicative tender is a tender that may be improved at any time of the dynamic purchasing system provided that it continues to comply with the requirements set in the contract documents.

3. For the purposes of setting up the dynamic purchasing system, the contracting authority shall:

1) publish a contract notice following the procedure set in Article 22 and 23 of this Law, making it clear in the notice that a dynamic purchasing system shall be applied;

2) indicate in the contract documents, amongst other matters, the object of procurement envisaged under that system, as well as all the necessary information concerning the purchasing system, the electronic equipment used and the technical connection arrangements and specifications;

3) indicate in the notice the internet address at which such documents may be consulted on publication of the notice and up to the expiry of the system, being offered unrestricted, direct and full access to the specification and to any additional documents.

4. Contracting authorities shall give any supplier, throughout the entire period of the dynamic purchasing system, the possibility of submitting an indicative tender and of being admitted to the system under the conditions referred to in paragraph 2 of this Article. The contracting authority shall complete evaluation of the indicative tender within a maximum of 15 days from the date of its submission. The contracting authority shall

have the right to extend the indicative tender evaluation period provided that no invitation to tender is issued in the meantime. The contracting authority shall inform the supplier without delay of its admittance to the dynamic purchasing system or of the rejection of its indicative tender.

5. Before issuing the invitation to tender, the contracting authority shall publish a simplified contract notice on the purchasing under the dynamic system and invite all interested suppliers to submit an indicative tender, in accordance with paragraph 4 of this Article, within a time limit that may not be less than 15 days from the date on which the simplified notice was sent from the Public Procurement Office. The contracting authority may not proceed with procurement procedures until it has completed evaluation of all the indicative tenders received by that deadline.

6. The contracting authority shall invite all suppliers admitted to the system to submit a tender for each specific contract to be awarded under the system. To that end it shall set a time limit for the submission of tenders.

7. On the basis of the award criteria set out in the contract notice for the establishment of the dynamic purchasing system the contracting authority shall establish the tenderer which submitted the best tender and award the contract to it. Those criteria may, if appropriate, be formulated more precisely in the invitation referred to in the paragraph 6 of this Article.

8. A dynamic purchasing system may not last for more than four years, except in cases duly justified by the contracting authority.

9. The contracting authority may not resort to the dynamic purchasing system to prevent, restrict or distort competition.

10. The contracting authority shall not bill any charges to the interested suppliers or to parties to the dynamic purchasing system.

Article 65. Electronic Auction

1. The contracting authority may use electronic auctions in open, restricted or negotiated procedures in the case referred to in subparagraph 1 of paragraph 1 of Article 55 of this Law. In the same circumstances, an electronic auction may be held on the reopening of competition among the parties to a framework agreement and on the opening for competition of contracts to be awarded under the dynamic purchasing system.

2. Tenders submitted to the electronic auction shall be evaluated on the basis of:

1) either solely on prices when the contract is awarded to the lowest price,

2) or on prices and/or on the new values of the features of the tenders indicated in the contract documents when the contract is awarded to the supplier who submitted the most economically advantageous tender.

3. The contracting authority, which decides to hold an electronic auction, shall state that fact in the contract notice. The notice shall include, *inter alia*, the following information:

1) the features, the values for which will be the subject of electronic auction, provided that such features are quantifiable and can be expressed in figures or percentages;

2) any limits on the values which may be submitted, as they result from the specifications relating to the subject of the contract;

3) the information which will be made available to tenderers in the course of the electronic auction and, where appropriate, when it will be made available to them;

4) the relevant information concerning the electronic auction process;

5) the conditions under which the tenderers will be able to bid and, in particular, the minimum differences which will, where appropriate, be required when bidding;

6) the relevant information concerning the electronic equipment used and the arrangements and technical specifications for connection.

4. Before proceeding with an electronic auction the contracting authority shall:

1) make a full initial evaluation of the tenders in accordance with the award criterion of the most economically advantageous tender and with the weighting fixed for them.

2) invite simultaneously by electronic means all tenderers who have submitted admissible tenders to submit new prices and/or new values. The invitation shall contain all relevant information concerning individual connection to the electronic equipment being used and shall state the date and time of the start of the electronic auction. The electronic auction may take place in a number of successive phases. The electronic auction may not start sooner than two working days after the date on which invitations are sent out.

5. When the contract is to be awarded on the basis of the most economically advantageous tender, the invitation shall be accompanied by the outcome of a full evaluation of the relevant tenderer. The invitation shall also state the mathematical formula to be used in the electronic auction to determine automatic rerankings on the basis of the new prices and/or new values submitted. That formula shall incorporate the weighting of all the criteria fixed to determine the most economically advantageous tender, as indicated in the contract notice or in other contract documents. Where variants are authorised, a separate formula shall be provided for each variant.

6. Throughout each phase of an electronic auction the contracting authority shall instantaneously communicate to all tenderers at least sufficient information to enable them to ascertain their relative rankings at any moment. They may also communicate other information concerning other prices or values submitted, provided that that is stated in the contracts documents. It may also at any time announce the number of participants in that phase of the auction. In no case, however, may it disclose the identities of the tenderers during any phase of an electronic auction.

7. The contracting authority shall close an electronic auction in one or more of the following manners:

1) in the invitation to take part in the auction it shall indicate the date and time fixed in advance;

2) when it receives no more new prices or new values which meet the requirements concerning minimum differences. In that event, the contracting authority shall state in the invitation to take part in the auction the time which it will allow to elapse after receiving the last submission before it closes the electronic auction;

3) when the number of phases in the auction, fixed in the invitation to take part in the auction, has been completed. When the contracting authority has decided to close an electronic auction in accordance with this subparagraph, or possibly in combination with the arrangements laid down in subparagraph (2) of this paragraph, the invitation to take part in the auction shall indicate the timetable for each phase of the auction.

8. After closing an electronic auction the contracting authority shall determine the winner on the basis of the results of the electronic auction who will be awarded the contract.

9. The contracting authority may not have improper recourse to electronic auctions nor may it use them in such a way as to prevent, restrict or distort competition or to change the subject of the contract, as indicated in the published contract notice and defined in other contract documents.

Article 66. Public Works Contracts: Particular Rules on Subsidised Housing Schemes

1. In the case of public contracts relating to the design and construction of a subsidised housing scheme the size and complexity of which, and the estimated duration of the work involved require that planning be based from the outset on close collaboration within a team comprising representatives of the contracting authorities, experts and the contractor to be responsible for carrying out the works, special rules may be adopted for selecting the contractor most suitable for integration into the team. The rules shall be approved according to Articles 3, 17, 19, 22, 23, 27, 28, 33 to 38 and 41 of this Law.

2. In particular, the contracting authority shall include in the contract notice as accurate as possible a description of the works to be carried out so as to enable

interested contractors to form a valid idea of the project. Furthermore, the contracting authority shall state in the contract notice the selection criteria set for the suppliers.

SECTION EIGHT DESIGN CONTESTS

Article 67. Cases Justifying the Use of the Design Contest Procedure

Design contest may be used when awarding contracts for area planning, architecture, engineering, data processing or other services of a similar character.

Article 68. Conducting a Design Contest

1. A design contest shall be advertised following the provisions in Articles 18 and 19.

2. The design contest shall be conducted in order to determine the supplier/suppliers who submitted the best plan or design (usually of area planning, architecture, civil engineering or data processing), where it is intended:

1) to award a service contract to the winner of the contest;

2) to provide prizes to the winner or winners of the contest, or other rewards for participation. In this case the contracting authority may continue the services contract award procedure by means of the negotiated procedure without publication of a contract notice, inviting to negotiate the winner or all winners (top rated tenderers) of the contest.

3. Both legal and natural persons shall be allowed to take part in the design contest.

4. The admission of tenderers to design contests shall not be limited by reference to the specific territory or other restriction of discriminatory nature.

5. The final date fixed for receipt of tenders in the contract documents may not be shorter than 52 days after the date of dispatching the design contest notice for publication from the Public Procurement Office.

6. The contracting authority may decide to conduct pre-qualification selection of candidates to be invited to submit their designs or projects. In such event, the contracting

authority shall fix non-discriminatory qualification criteria capable of ensuring the genuine competition.

7. The Government of the Republic of Lithuania or the institution authorised by it shall approve the rules for organising a design contest.

Article 69. The Jury

1. The projects and drawings of the tenderers shall be assessed by the jury, formed by the contracting authority or the authorised body. The contracting authority must fully authorise the jury to perform the assessment of the design or project and identify the winner. The jury shall be composed exclusively of natural persons who are independent of tenderers in the contest. Only natural persons of impeccable reputation who have signed a declaration of impartiality and a statement of confidentiality shall be appointed chairman and members of the jury. Where a particular professional qualification is required from participants in a contest, at least a third of the members of the jury shall have that qualification. The jury shall take decisions only at the sitting. Complete minutes shall be drawn up of the sittings of the jury.

2. The jury shall be autonomous in its decisions or opinions. Only anonymously submitted projects shall be evaluated (the jury may find out the name of the tenderer only after the jury has taken a decision as regards the best design or project).

3. The submitted designs and projects shall be evaluated subject to the evaluation criteria set forth in the contract documents, and these shall not be necessarily based on the lowest price or the highest economic advantage. The jury shall record its ranking of projects in a report, signed by its members, made according to the merits of each project, together with its remarks and any points which may need clarification.

4. After the jury reaches a consensus or makes a decision candidates may be invited, if need be, to answer questions which the jury has recorded in the minutes. Complete minutes shall be drawn up of the dialogue between jury members and candidates.

CHAPTER III**PROCUREMENT PROCEDURES OF ENTITIES OPERATING IN WATER, ENERGY,
TRANSPORT AND POSTAL SERVICES SECTORS****Article 70. Regulation of Procurement Procedures of Entities Operating in Water, Energy, Transport or Postal Services Sectors**

1. This Chapter shall apply where contracting authorities operating in water, energy, transport and postal services sectors award public contracts necessary for one or several of the activities listed in paragraph 2 below. These contracting authorities shall include:

1) contracting authorities defined in subparagraphs 1, 2 and 3 of paragraph 1 of Article 3;

2) state or municipal undertakings;

3) any undertaking over which the contracting authority referred to in subparagraph 1 of this paragraph can exert a dominant influence, whether directly or indirectly, as a result of ownership, financial participation or the rules which regulate the activities of the undertaking. A dominant influence on the part of the contracting authority shall be presumed when, directly or indirectly in relation to another undertaking, it: holds a majority of the undertaking's subscribed capital or controls a majority of the votes attached to the shares issued by the undertaking or can appoint more than half of the undertaking's administrative, management or supervisory body members;

4) undertakings granted by the competent authority special or exclusive rights to carry out an activity specified in paragraph 2 of this Article. As used in this Article, special and exclusive rights shall mean rights granted by the competent authority by law or any other legal acts to one or several undertakings to carry out the activity indicated in paragraph 2 of this Law, which therefore has a substantive effect on the possibilities of other undertakings to carry out the activity.

2. Activities in the water, energy, transport and postal services sectors include:

1) the provision to other persons of fixed networks intended to provide public services to the public in connection with the production, transport or distribution of drinking water, electricity, gas or heat, where the networks are operated by the contracting authority or provided by the contacting authority to other persons, the

activities of operation, maintenance or exploitation of fixed networks as well as activities pertaining to the supply of drinking water, electricity, gas or heat to such networks;

2) the activities of hydraulic engineering projects, irrigation or land drainage connected with production, supply or distribution of drinking water, provided that more than 20% of the total volume of water made available by such projects or irrigation or drainage installations shall be supplied as drinking water;

3) the activities of sewage disposal or treatment connected with the production, supply or distribution of drinking water;

4) the provision to other persons, operation, maintenance or exploitation of networks required for providing a service to the public in the field of transport by railway, automated systems, trolley bus, bus or cable. A network shall be any existing infrastructure (equipment, signs, etc.) necessary for the transport activity, as well as the routes to be served, timetables, the capability to be made available or any other regulation of the conditions for the transport services laid down by a competent state or local authority, institution or an organisation authorised by it. The provision of bus transport services to the public shall not be considered an activity regulated by this Law, where any other entity is free to provide the same services as those specified by the contracting authority;

5) the operation, maintenance or exploitation of a geographical area for the purpose of exploring for or extracting oil, gas, coal or other solid fuels;

6) the exploitation of a geographical area for the purpose of the provision of airport, maritime or inland port or other terminal facilities to carriers by air, sea or inland waterway;

7) the provision of postal services. For the purpose of this Law postal services and postal item shall be used within the meaning defined in the Postal Law of the Republic of Lithuania;

8) the provision of services other than postal services on condition that such services are provided by an economic entity, which also provides postal services. Other services than postal services shall be: mail service management services (services both preceding and subsequent to despatch, such as "mailroom management services"), added-value services linked to and provided entirely by electronic means (including the secure transmission of coded documents by electronic means, address management services and transmission of registered electronic mail), services concerning postal items

not defined in the Postal Law of the Republic of Lithuania, such as direct mail bearing no address, financial services except for those referred to in subparagraph 2 of paragraph 2 of Article 10 of this Law, including in particular postal money orders and postal giro transfers; philatelic services, and logistics services (services combining physical delivery and/or warehousing with other non-postal functions).

3. The activities in the water and energy sectors shall be not regarded as the activities referred to in paragraph 2 of this Article, if they are performed by the contracting authorities indicated in subparagraphs 2, 3 and 4 of paragraph 1 of this Law to supply to the fixed networks intended to provide a service to the public:

1) gas or heat, where the production of gas or heat by the entity concerned is the unavoidable consequence of carrying on activities other than those referred to in paragraph 2 of this Article and supply to the public network is aimed only at the economic exploitation of such production and amounts to not more than 20% of the entity's turnover having regard to the average for the preceding three years, including the current year;

2) in the case of electricity where the production of electricity is conditioned by the activity other than that referred to in paragraph 2 of this Article, and supply to the public network depends only on the entity's own consumption and has not exceeded 30% of the entity's total production of electricity having regard to the average for the preceding three years, including the current year;

3) drinking water, where the production of drinking water is the unavoidable consequence of carrying on activities other than those referred to in paragraph 2 of this Article and supply to the public network is aimed only at the economic exploitation of such production and amounts to not more than 30% of the entity's average amount of drinking water production for the preceding three years, including the current year.

Article 71. Procedure for Establishing whether a Given Activity is Directly Exposed to Competition

1. Contracts intended to enable an activity mentioned in Article 70 to be carried out shall not be subject to this Law if the activity is directly exposed to competition on markets to which access is not restricted.

2. For the purposes of paragraph 1 of this Article, the question of whether an activity is directly exposed to competition shall be decided. On the basis of criteria that

are in conformity with provisions on competition of the Treaty Establishing the European Community, such as the characteristics of the goods or services concerned, the existence of alternative goods or services, the prices and the actual or potential presence of more than one supplier of the goods or services in question.

3. Access to a market shall be deemed not to be restricted if the provisions of the legal acts of the European Community have been implemented and applied. If free access to a given market cannot be presumed on the basis of the first subparagraph, it must be demonstrated that access to the market in question is free *de facto* and *de jure*.

4. The application to apply paragraph 1 of this Article may be filed to the Commission of the European Communities by the contracting authority itself or by the authorised state bodies according to their competence. The application shall be filed according to the 2005/15/EC: Commission Decision of 7 January 2005 on the detailed rules for the procedure provided for in Article 30 of Directive 2004/17/EC of the European Parliament and of the Council coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors.

Article 72. Types of Procurement Procedures Used by Entities Operating in the Water, Energy, Transport or Postal Services Sectors

1. The contracting authorities may award contracts according to the following procedures:

- 1) by means of the open procedure;
- 2) by means of the restricted procedure;
- 3) by means of negotiated procedure (with or without publication of a contract notice).

2. The contracting authority may use the open procedure, the restricted procedure or the negotiated procedure with publication of a contract notice in all cases without limitations provided that the contract notice was published according to the requirements set in Article 74 of this Law.

3. In cases specified in Article 73 of this Law, the contracting authority may choose not to publish a contract notice and award the contract by means of the negotiated procedure without publication of a contract notice.

4. The contract may be awarded by using the design contest in cases referred to in Article 66.

5. The contracting authority may award contracts using the dynamic purchasing system or the electronic auction as specified in Article 64 and 65 of this Law. The contracting authority may apply electronic auctions to award contracts by means of the open procedure, restricted procedure or negotiated procedure with publication of a contract notice provided that the subject matter of the contract may be given a precise description. Electronic auction may also be used for the award of contract using the dynamic purchasing system.

Article 73. Cases where Procurement by Means of Negotiated Procedure without Publication of a Contract Notice is Allowed

1. Supply, services or works contracts may be awarded by means of negotiated procedure without publication of a contract notice if there is at least one of the conditions given below:

1) when no tenders or no suitable tenders or request to participate have been submitted in response to an open or restricted procedure or negotiated procedure with publication of a contract notice, or when all tenderers have failed to meet the minimum qualification requirements, provided that the initial conditions of contract are not substantially altered;

2) where a contract is purely for the purpose of research, experiment, study or development, and not for the purpose of securing a profit or of recovering research and development costs, and in so far as the award of such contract does not prejudice the competitive award of subsequent contracts;

3) when, for technical or artistic reasons, the supplies may be delivered, services rendered and works performed only by a particular economic entity having the exclusive rights to produce (supply, perform) these products, works or services and there is no other alternative;

4) when, for reasons of extreme urgency brought about by events unforeseeable by the contracting authority in question, the time limit for the open, restricted or negotiated procedures with publication of a contract notice cannot be kept within the time limits fixed by this Law.

5) when contracts are awarded on the basis of the framework agreement concluded according to the procedure prescribed by this Law.

2. Supply contracts may also be awarded without the publication of a contract notice in the following cases:

1) where the contracting authority had previous contracts with the same supplier of goods and determined, that, from the technical compatibility point of view, it is reasonable to procure the additional supplies from the same supplier, provided that such earlier contracts were efficient, and that changing the supplier would result in technical incompatibility, where the new suppliers or services could not be operated together with the previously procured supplies or services, or the contracting authority could incur considerable losses;

2) for supplies quoted and purchased on a commodity market;

3) for bargain purchases, where it is possible to procure supplies by taking advantage of a particularly advantageous opportunity available for a very short time at a price considerably lower than normal market prices;

4) for purchases of supplies under particularly advantageous conditions from a supplier who is ceasing to trade on a permanent basis or is involved in insolvency or bankruptcy proceedings, or is in the process of restructuring.

3. In case of public service contracts, when the contract concerned follows a design contest and is awarded to the successful candidate or to one of the successful candidates: in the latter case, all successful candidates shall be invited to participate in the negotiations.

4. As regards public service contracts and public works contracts for additional services or works not included in the project initially considered or in the contract first concluded but which have, through unforeseen circumstances, become necessary for the performance of the services or works described therein, when such additional services or works cannot be technically or economically separated from the main contract without major inconvenience to the contracting authorities, or which, even though separable from the principal contract, are necessary for the performance of the principal contract at its later stages.

5. For new works consisting of the repetition of similar works entrusted to the economic entity to whom the same contracting authorities awarded an earlier contract, provided that such works conform to a basic project for which a first contract was

awarded according to the open or restricted procedures or negotiated procedure with publication of a contract notice, where the total estimated cost of subsequent works has been taken into consideration, and that the possibility of additional contracts has been pointed out in the contract notice and all the above-mentioned contracts were intended for the performance of the same project..

Article 74. Contract Notices

1. The contracting authority shall at least once per year publish, according to the terms and procedure prescribed in Articles 22 and 23 of this Law, a prior indicative notice of planned procurement.

2. Publishing a regular indicative notice of the planned procurement, especially of large scale projects, the contracting authority may refrain from repeating in the notice the information that has already been published provided that it is expressly stated that this is an additional notice.

3. In case of a supplies, services or works contract a call for competition shall be made by one of the following methods:

- 1) by a regular indicative notice or
- 2) by a notice of the presence of the qualification system or
- 3) by a contract notice.

4. Where a call for competition is made by a regular indicative notice of the planned procurement, the notice shall be published at least 12 months before the date of dispatch of invitation under Article 78 of this Law and shall contain an indication that there shall be no publication of a separate contract notice. Moreover the contracting authority shall be obliged to comply with the time limits for the submission of requests and tenders set in Article 75 of this Law.

5. Having decided to use the qualification system as prescribed by Article 77 of this Law, the contracting authority shall publish a notice to the effect, specifying the purpose and requirements of the qualification system. In case the intended period of application of the qualification system is in over three years, the notice shall be published every year and in case of a shorter period of application the notice shall be published one time.

6. In case of the dynamic purchasing system invitation to take part in the system procedures shall be made by a contract notice referred to in subparagraph 3 of paragraph

3 of this Article while a call for competition for a specific contract shall be made by a simplified notice used in the application of the dynamic purchasing system.

7. Having awarded the contract the contracting authority shall publish a notice of:

1) the award of the contract, including the conclusion of the framework agreement, within two months of the award of the contract and conclusion of the framework agreement. The contracting authority shall not be bound to publish a notice in case it awards a contract on the basis of the framework agreement;

2) the award of the contract based on a dynamic purchasing system not later than within two months after the award of every contract or it may publish the grouped notices on a quarterly basis.

8. The contracting authority shall publish the results of the design contest within 2 months from the approval of the results of the design contest.

9. The contract award notice, including the conclusion of the framework agreement and design contest results notice shall not contain any confidential information, referred to by the contracting authority as commercial secret: the number of the received tenders, the identity of the supplier or prices. The information shall be published only in the simplified form for the purpose of statistics.

10. Where the contracting authority awards a research-and-development service contract, in the contract award notice:

1) it may limit the information provided concerning the nature and quantity of the services provided to the reference "research and development services" ("R& D contract") where the contract is awarded by way of a procedure without a call for competition;

2) the contracting authority may, on grounds of commercial confidentiality, limit the information provided concerning the nature and quantity of the services supplied where the contracting authority awards an R& D contract, which cannot be awarded by way of a procedure without a call for competition;

3) the contracting authority shall ensure that any information referred to is no less detailed than that contained in the notice of the call for competition published in accordance with paragraph 3 of this Article 42;

4) the contracting authority shall ensure that any information referred to in the list of qualified service providers, if they use a qualification system, contracting entities shall ensure in such cases that such information is no less detailed than the category referred to in the list of qualified service providers.

11. The contracting authority must possess documents confirming the sending in due time the notices specified in this Article.

Article 75. Time Limits

1. Time limits in the procedures depend on the type of procedure. The contracting authority shall fix the time limits for submission of requests and tenders according to the provisions of Article 28 of this Law, by taking into account the complexity of the contract and the time necessary for drawing up the requests to participate and tenders.

2. In case of the open procedure, the time limit of 52 from the day of dispatch from the Public Procurement Office of the notice specified in paragraph 3 of Article 74 of this Law shall apply.

3. In restricted procedures and in negotiated procedures with publication of a contract notice according to the provisions of subparagraph 3 of paragraph 3 of Article 74 of this Law or dispatch of the invitation referred to in paragraph 2 of Article 78 of this Law, the time limit fixed for submission of requests to participate may not be shorter than 37 days from the dispatch of the notice from the Public Procurement Office or from the day of sending of the invitation. The time limit may, upon emergence of circumstance unforeseeable by the contracting authority, be shortened but may not be shorter than 22 days and at not shorter than 15 days if the notice is transmitted by electronic means.

4. In case of restricted procedure or negotiated procedure with publication of a contract notice, the time limit for receipt of tenders may be set by mutual agreement between the contracting authority and the selected suppliers, provided that all candidates have the same time to prepare and submit their tenders. Where it is not possible to reach agreement on the time limit for receipt of tenders, the contracting authority shall fix a time limit which shall be at least 24 days from the day of dispatch of the invitation to tender or, in case of emergence of circumstance unforeseeable by the contracting authority, the time limit may be shortened but may not be shorter than 10 days from the date of the dispatch of invitation to tender.

5. If the contracting authority published PIN at least 52 days but not more than 12 months before starting the procedures, and provided the information about the contract in the manner prescribed by paragraph 1 of Article 22 of this Law, then the time limits specified in paragraph 2 of this Article may be reduced to 36 days. In case of emergence of circumstances unforeseeable by the contracting authority the time limit may be shorter than 36 days but not less than 22 days from the day of dispatch of the notice from the Public Procurement Office.

6. If the contracting authority draws up and transmits the notice by electronic means in accordance with the requirements set by this Law, the time limit for the receipt of requests to participate in case of restricted procedure and negotiated procedure and receipt of tenders in case of open procedures may be shortened by 7 days.

7. Where the contracting authority offers unrestricted and full direct access by electronic means to the contract documents and any supplementary documents from the date of publication of the notice, the time limits for the receipt of tenders in case of open, restricted and negotiated procedures may be reduced by five more days, except in cases where, in the award of contracts by restricted procedure or by negotiated procedure with publication of a contract notice, the time limit for the receipt of tenders may be set by mutual agreement between the contracting authority and the selected suppliers. The notice shall specify the Internet address at which this documentation is accessible.

8. the cumulative effect of the reductions provided for in paragraphs 5, 6 and 7 may in no case result in a time limit for receipt of tenders in an open procedure of less than 15 days from the date on which the contract notice is transmitted. However, if the contract notice is not transmitted by fax or electronic means, the cumulative effect of the reductions provided for in paragraphs 5, 6 and 7 may in no case result in a time limit for receipt of tenders in an open procedure of less than 22 days from the date on which the contract notice is transmitted.

9. In restricted and negotiated procedures, the cumulative effect of the reductions provided for in paragraphs 5, 6 and 7 may in no case be shorter than 15 days from the date on which the contract notice or the invitation is transmitted, and the time limit for the receipt of tenders, except for the time limit set by mutual agreement between the

contracting authority and the selected suppliers, result in a time limit for the receipt of tenders of less than 10 days from the date of the invitation to tender.

10. If, for whatever reason, the contract documents or additional information, although requested in good time, have not been supplied within the time limits set in Articles 27 of this Law, or where tenders can be made only after a visit to the site or after on-the-spot inspection of the contract documents, the contracting authority shall extend the time limits for the receipt of tenders accordingly so that all suppliers concerned may be aware of all the information needed for the preparation of a tender and publish a notice about it according to the procedure set in Article 23 of this Law. The time limit set by mutual agreement by the contracting authority and the selected suppliers may be refused extension.

Article 76. Verifying Suppliers' Qualification and Pre-qualification Selection

1. When awarding the contract by open, restricted or negotiated procedure, the contracting authority shall verify the suppliers' qualification according to the requirements set by it. Qualification requirements shall be set based on the provisions of Articles 32, 33, 34, 35, 36, 37 of this Law. All interested suppliers shall be introduced to the qualification requirements.

2. In restricted or negotiated procedures, the contracting authority shall select the candidates according to the established pre-qualification selection criteria and requirements based on the objective need of the contracting authority to reduce the number of candidates to a level which is justified by the need to balance the particular characteristics of the procurement procedure with the resources required to conduct it; however, the number of candidates selected shall take account of the need to ensure adequate competition.

3. When awarding contract the contracting authority may create the qualification system or use one created by other contracting authorities as prescribed by Article 77 of this Law.

4. The contracting authority, which selects candidates for restricted or negotiated procedures, shall do so according to objective equal rules and criteria.

5. When selecting candidates to participate in a restricted or negotiated procedure the contracting authority shall not impose on certain suppliers administrative, technical or financial mutual recognition conditions nor require tests or evidence which would duplicate objective evidence already available.

Article 77. Qualification System

1. The contracting authority may establish and operate a system of qualification of suppliers. The contracting authority which establishes and operates the system shall ensure that suppliers are at all times able to request qualification. The decision concerning the inclusion or refusal to include the supplier in the list of qualified suppliers shall be taken by the contracting authority within 36 months from the submission of the request.

2. The suppliers' qualification for the purpose of establishing the qualification system may involve different qualification stages.

3. The qualification system shall be operated on the basis of objective criteria and rules for qualification established by the contracting authority. Where those criteria and rules include technical specifications, the provisions of Article 25 shall apply.

4. The criteria and rules for qualification assessment shall include the exclusion criteria listed in Article 33 of this Law on the terms and conditions set out therein.

5. Where the criteria and rules for qualification assessment include requirements relating to the suppliers' economic and financial capacity as well as technical and/or professional abilities, the latter may where necessary rely on the capacity or abilities of other entities, whatever the legal nature of the link between itself and those entities. In this case the supplier must prove to the contracting authority that these resources will be available to it throughout the period of the validity of the qualification system. Under the same conditions, a group of economic entities may rely on the capacity and abilities of participants in the group or of other entities.

6. The criteria and rules for qualification shall be made available to economic entities on request. Where necessary the criteria and rules may be updated. The updating of these criteria and rules shall be communicated to interested economic entities.

7. Having assessed the suppliers' qualification the contracting authority shall compile the list of qualified suppliers. Compiling the list the suppliers may be divided into separate categories to which appropriate qualification requirements shall be applied taking into account the type of the contract for which the qualification is valid.

8. When establishing or operating the suppliers' qualification system, the contracting authority shall in particular:

1) publish a notice of the existence of a system of qualification following the provisions of paragraph 5 of Article 74 of this Law;

2) deliver the information to economic entities having applied for qualification concerning their recording in the qualification system as specified in paragraphs 2, 3 and 4 of Article 79 of this Law;

3) perform the selection of participants on the basis of equivalent criteria when a call for competition or participation in the negotiated procedure is made by means of a notice on the existence of a qualification system;

4) comply with the provisions regarding the requirements for mutual recognition concerning administrative, technical or financial conditions, certificates, tests and evidence as set forth in paragraph 5 of Article 76 of this Law and Article 37 of this Law when selecting participants for the competition and restricted procedure, deciding on qualification or updating rules or criteria.

9. The contracting authority may remove the supplier from the list of qualified suppliers only in cases where the supplier's qualification does not meet the criteria of qualification system established by the contracting authority.

Article 78. Invitation to Submit Tenders or to Negotiate

1. The contracting authority shall invite by a written invitation the candidates selected according to the procedure established in a 76 of this Law to submit tenders or to negotiate. The content of the invitation shall be specified by Articles 49 and 62 of this Law.

2. In the cases where by publication of a regular indicative notice a call for competition is made, the contracting authority, before commencing the selection of participants in the restricted or negotiated procedure shall invite all candidates to confirm their agreement to participate in the procurement procedures. The invitation shall contain at least the following information:

1) nature and quantity, including all options concerning complementary contracts and, if possible, the estimated time available for exercising these options for renewable contracts, the nature and quantity and, if possible, the estimated publication dates of future notices of competition for works, supplies or services to be put out to tender;

2) type of procedure: restricted or negotiated;

3) where appropriate, the date on which the delivery of supplies or the execution of works or services is to commence or terminate;

4) the address and closing date for the submission of requests for tender documents and the language or languages in which they are to be drawn up;

5) the address of the entity, which is to award the contract and the information necessary for obtaining the specifications and other documents;

6) economic and technical conditions, financial guarantees and information required from suppliers;

7) the amount and payment procedures for any sum payable for obtaining tender documents;

8) the form of the contract, which is the subject of the invitation to tender: purchase, lease, hire or hire-purchase, or any combination of these;

9) the contract award criteria and their weighting or, where appropriate, the order of importance of such criteria, if this information is not given in the indicative notice or the specifications or in the invitation to tender or to negotiate.

Article 79. Information to Suppliers about the Results of Procurement Procedures and Qualification Assessment

1. The contracting authority shall inform the candidates and the participants of the results of the procurement procedures following the requirements set in paragraphs 1, 2, 3 of Article 41 of this Law.

2. The contracting authority which establishes and operates a system of qualification shall uniform of its decision to enter the supplier in the list of qualified suppliers within a period of six months. If the decision will take longer than four months from the presentation of the supplier's application, the contracting authority shall inform the applicant, within two months of the application, of the reasons justifying the longer period and of the date by which his application will be accepted or refused.

3. The suppliers whose qualification does not meet the requirements of the qualification system of the contracting authority shall be informed of this decision and the reasons for refusal as soon as possible and under no circumstances more than 15 days later than the date of the decision. The reasons shall be based on the criteria for the assessment of the suppliers' qualification referred to in paragraphs 2 and 3 of a 77 of this Law.

4. Any intention to remove the economic entity from the list of qualified suppliers shall be notified in writing to the economic entity beforehand, at least 15 days before the date of removal, together with the reason or reasons justifying the proposed action.

Article 80. Design Contest

Requirements to design contests shall be regulated in Section Eight of Chapter II of this Law.

Article 81. Specifics of Framework agreements

1. The contracting authority shall conclude a framework agreement in compliance with the requirements of this Chapter in the same manner as prescribed for the award of contracts by paragraphs 26 to 29 of Article 2 of this Law.

2. Where the contracting authority has concluded a framework agreement following the requirements set in paragraph 1 of this Article, it may award a contract on the basis of the agreement by means of negotiated procedure without publication of the contract notice subject to the condition specified in subparagraph 5 of paragraph 1 of Article 73 of this Law.

3. The contracting authority may not abuse the framework agreement with a view to preventing, restricting or distorting competition.

Article 82. Tenders Comprising Products Originating in Third Countries

1. This Article shall apply to tenders covering products originating in third countries with which the European Community has not concluded, whether multilaterally or bilaterally, an agreement ensuring comparable and effective access for Community undertakings to the markets of those third countries. It shall be without prejudice to the obligations of the European Community or its Member States in respect of third countries.

2. Any tender submitted for the award of a supply contract may be rejected where the proportion of the products originating in third countries, as determined in accordance with Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (30), exceeds 50 % of the total value of the products constituting the tender. For the purposes of this Article, software used in telecommunications network equipment shall be regarded as products.

3. Subject to the second subparagraph, where two or more tenders are equivalent in the light of the contract award criteria, preference shall be given to those tenders, which may not be rejected pursuant to paragraph 2 of this Article. The prices of those tenders

shall be considered equivalent for the purposes of this Article, if the price difference does not exceed 3 %. However, a tender shall not be preferred to another pursuant to the first subparagraph where its acceptance would oblige the contracting entity to acquire equipment having technical characteristics different from those of existing equipment, resulting in incompatibility, technical difficulties in operation and maintenance, or disproportionate costs.

4. For the purposes of this Article, those third countries to which the benefit of the provisions of this Directive has been extended by a Council Decision shall not be taken into account for determining the proportion, referred to in paragraph 2 of this Article, of products originating in third countries.

Article 83. Provision of Information on the Award of Contracts in Third Countries

1. The contracting authority and the suppliers shall inform the Ministry of Economy of any general difficulties, in law or in fact, encountered and reported by them in securing the award of service contracts in third countries. The Ministry of Economy shall provide the information to the Commission of the European Communities.

2. The contracting authorities and suppliers shall inform the Ministry of Social Security and Labour of the Republic of Lithuania of any difficulties, in law or in fact, encountered by them when endeavouring to award service contracts in third countries which are due to the non-observance of the following international labour law provisions:

- 1) Convention 87 on Freedom of Association and the Protection of the Right to Organise;
- 2) Convention 98 on the Right to Organise and Collective Bargaining;
- 3) Convention 29 on Forced Labour;
- 4) Convention 105 on the Abolition of Forced Labour;

- 5) Convention 138 on Minimum Age;
- 6) Convention 111 on Discrimination (Employment and Occupation);
- 7) Convention 100 on Equal Remuneration;
- 8) Convention 182 on Worst Forms of Child Labour.

3. The Ministry of Social Security and Labour of the Republic of Lithuania shall submit the information specified in paragraph 2 of this Article to the Commission of the European Communities.

CHAPTER IV SIMPLIFIED PROCUREMENT PROCEDURES

SECTION ONE GENERAL PROVISIONS

Article 84. Public Contracts subject to this Chapter, and Award Procedures

This Chapter regulates awarding of the following public contracts (hereinafter referred to as simplified procurement procedure):

- 1) contracts the value whereof is below the international thresholds referred to in Article 11 of this Law;
- 2) contracts for B type services (Annex 2 to this Law) regardless of the value of contract;
- 3) contracts referred to in paragraph 14 of Article 9 of this Law.

Article 85. Simplified Procurement Contracts Awarded by Contracting Authorities Operating in the Water, Energy, Transport or Postal Services Sectors

Contracting authorities operating in the water, energy, transport or postal services sectors shall award the simplified procurement public contracts according to the procurement procedure approved by the contracting authority, provided that the procedure meets the public procurement principles and objectives set forth in Article 3 of

this Law. The contract notices, however, which, according to the approved procedure, are to be published shall be subject to the rules established in paragraphs 1, 2 and 3 of Article 89 of this Law. The contracting authority shall fix the time limits for submitting tenders, which shall not be shorter than 14 days from the day of publishing of the notice in "*Informaciniai pranešimai*" (the information supplement to the official gazette "*Valstybės žinios*"). The procurement contracts shall not be subject to other requirements set forth in Chapter IV of this Law.

Article 86. Simplified Procurement Contracts and Procedures

1. Simplified procurement shall be conducted by means of the following procedures:

- 1) simplified open procedure;
- 2) simplified restricted procedure;
- 3) simplified negotiated procedure with publication of a contract notice;
- 4) simplified negotiated procedure without publication of a contract notice;
- 5) usual commercial practice.

2. Under the conditions specified in a 116 of the Law the contracting authority may resort to simplified procurement procedure –conduct the simplified design contest.

3. The contracting authority may conduct simplified procurement when applying the dynamic purchasing system or electronic auction as referred to in Article 64 and 65 of this Law as well as conclude the framework agreement as specified in Article 63 of this Law or apply the competitive dialogues as indicated in Sector Four of Chapter II of this Law.

4. A public contract may be awarded by the means of a simplified open or simplified restricted procedure in any case.

5. A public contract may be awarded by simplified negotiated procedure with publication of a contract notice where any of the following conditions is present:

- 1) where the nature and complexity of the procurement object does not allow the contracting authority to described it in a clear and unambiguous manner (i.e., where the contracting authority can specify only the needs to be met by the procurement object, or there is more than one solution to the problems causing the need for supplies, services or works) and resort to the open or restricted procedures;

2) where the procurement procedure failed as no tenders or no suitable tenders or no requests to participate were received in response to the open or restricted procedure, provided the initial conditions of contract are not substantially altered.

6. A public contract may be awarded by means of a simplified open or simplified restricted procedure without publication of a contract notice, provided at least one of the conditions referred to in paragraphs 7, 8, 9, 10, 11 below is present.

7. In case of public supplies, services or works contracts, the simplified negotiated procedure without publication of a contract notice may be used:

1) where the procurement procedure failed, since no tenders or no requests to participate have been submitted in response to an open or restricted procedure;

2) where in a simplified open or simplified restricted procedure the tenders submitted are very different, or where tenders submitted are not acceptable for the contracting authority, provided the initial conditions of contract are not substantially altered and all tenderers who meet the minimum qualification requirements set by the contracting authority are invited to the simplified negotiated procedure without publication of a contract notice;

3) when, for technical or artistic reasons, or for reasons connected with the protection of exclusive rights, the contract may be awarded only to a particular economic entity, and there is no other alternative;

4) insofar as is strictly necessary when, for reasons of extreme urgency brought about by events unforeseeable by the contracting authority in question, the time limit for the simplified open, restricted or negotiated procedures with publication of a contract notice cannot be complied with, and there is no other alternative. The circumstances invoked to justify extreme urgency must not in any event be attributable to the contracting authority;

8. Supplies or services contracts may be awarded by simplified negotiated procedure without publication of a contract notice:

1) where the contracting authority had previous contracts with the same supplier of goods or services and determined, that, from the technical compatibility point of view, it is reasonable to procure the additional supplies or services from the same supplier, provided that such earlier contracts were efficient, that the price and other contract conditions are not substantially altered, and that changing the supplier would result in technical incompatibility, where the new suppliers or services could not be operated

together with the previously procured supplies or services, and contracting authority could incur considerable losses. If the price of such additional public supplies or services contracts exceeds 30% of the price in the previous contract, an expert assessment of the technical compatibility of the additionally procured goods or services shall be carried out;

2) where the goods or services are procured abroad for diplomatic representation offices, military envoys and special attachés.

9. In case of the public supply contracts, the simplified negotiated procedure without publication of a contract notice may be used:

1) when the products involved are manufactured purely for the purpose of research, experiment, study or development, not seeking profit or recovery of research and development costs;

2) for supplies quoted and purchased on a commodity market;

3) when the object of the procurement is museum exhibits, archive or library documents, subscribed papers and magazines;

4) for the purchase of supplies on particularly advantageous terms, from either a supplier who is ceasing to trade on a permanent basis or receivers or liquidators involved in insolvency proceedings;

5) when purchases are made from the State Reserve.

10. The simplified negotiated procedure without publication of a contract notice may be used to award public services contracts, if:

1) the public service contract is awarded following the design contest to the successful candidate or to one of the successful candidates; in the latter case, all successful candidates must be invited to participate in the negotiations;

2) the subject of the contract is a licence to use library documents or data (information) bases;

3) the subject of procurement is air transport services.

11. The simplified negotiated procedure without publication of a contract notice may be used to procure services and works, where:

1) for additional services or works not included in the project initially considered or in the original contract but which have, through unforeseen circumstances, become necessary for the performance of the services or works described therein, on condition that the award is made to the same supplier performing such services or works under the

original contract, and the aggregate value of contracts awarded for additional services or works does not exceed 15% of the amount of the original contract;

2) for new deliveries of services or works by the existing supplier, which are the same as procured under the previous contracts, on the condition that the previous contract was awarded by means of the open or restricted procedure, the contract notice whereof provided for the possibility of such additional contracts and included their value, and are intended for the execution of the same project. The length of such additional contracts may not exceed three years after the first additional contract is concluded.

12. Contracting authorities may resort to the simplified design contest when they are purchasing area planning, architecture, and engineering or data processing, artistically or culturally complex or similar services.

13. The usual commercial procedure may be used to award a public contract under any of the following conditions:

1) the contract value net of VAT is below LTL 75 thousand for supplies and services, or less than LTL 300 thousand for works;

2) where it is not possible to use any other type of simplified procedures without violating the rules thereof due to the extraordinary circumstances, such as accidents, natural disaster, epidemics or similar *force major* circumstances;

3) where contracts are awarded for training services for the contracting authority's judges, professional military servicemen, civil servants and/or staff employed under the employment contract;

4) goods and services are procured with the funds allocated for representation expenses;

5) the supplies, works and services of the same type are procured by awarding several contracts at the same time in the form of separate lots, if the total value of the lots, net of VAT, is up to 10% of the total value of all contracts for similar supplies or services and 1.5% for works.

Article 87. Simplified Procurement from Social Undertakings, Undertaking in which 50 % of the Employees are Inmates of Penitentiary Institutions or the Handicapped, or Undertakings of Health Care Institutions, if at least 50% of the Employees are Occupational Therapy Patients.

Procurement simplified in the manner specified in subparagraphs 4 and 5 of paragraph 1 of Article 86 of this Law may be conducted where contracts are awarded to social undertakings in which over 50% of the employees are inmates serving the penalties of arrest, term deprivation of freedom or life sentence, undertakings in which over 50% of the employees are handicapped and whose activities have not been included in the list of supportable activities, and undertakings in which at least 50% of the employees are occupational therapy patients and the contracting authority awards contracts for the procurement of supplies manufactured, services provided or works performed by them. The list of non-supportable activities performed by undertakings where over 50% of the employees are handicapped shall be approved by the Government of the Republic of Lithuania or an institution authorised by it. The contracting authority, save for the diplomatic missions, consular posts of the Republic of Lithuania abroad and representations of the Republic of Lithuania in international organizations, when awarding contracts by using simplified procedure in the manner specified in subparagraphs 4 and 5 of paragraph 1 of Article 86 of this Law to be performed with state and municipal budget funds shall allocate at least 10% of all the funds earmarked in the budget programme estimate for buying supplies and services as well as material property to procuring supplies manufactured, services provided or works performed by the institutions and undertakings referred to in this paragraph except in cases where the institutions or undertakings do not manufacture the required supplies nor provide the necessary services or works. The institutions and undertakings specified in this paragraph shall produce and approve the lists of supplies manufactured, services provided or works performed and every year by 1 October publish them in the “*Informaciniai pranešimai*” supplement to the official gazette “*Valstybės žinios*”.

Article 88. Principles and Confidentiality in Simplified Procurement Procedures

When awarding public contracts by means of simplified procurement procedures, the contracting authorities shall respect the principles and confidentiality requirements referred to in Articles 3 and 6 of this Law.

Article 89. Advertising Rules in Simplified Procurement Procedures

1. The contracting authority shall also advertise each individual contract awarded by using the simplified open procedure, the simplified restricted procedure, the simplified negotiated procedures with publication of a contract notice or the simplified design contest.

2. Contracting authorities shall publish the relevant notices in the “*Informaciniai pranešimai*” supplement to the official gazette “*Valstybės žinios*”, and in the Central Portal of Public Procurement. In addition, the notices may be published on the Internet website of the contracting authority and in other publications as well as elsewhere on the Internet.

3. The contracting authorities shall deliver the notices intended for publication in the “*Informaciniai pranešimai*” supplement to the official gazette “*Valstybės žinios*” and in the Central Portal of Public Procurement to the Public Procurement Office, which shall publish them according to the procedure prescribed by this Law. A notice may not appear in the Central Portal of Public Procurement, the Internet website of the contracting authority or any other publication before it is published in the “*Informaciniai pranešimai*” supplement to the official gazette “*Valstybės žinios*.” The content of the same notice shall be identical everywhere.

4. The Public Procurement Office shall set forth the requirements for prior information notices.

Article 90. Simplified Procurement Commission

A public procurement commission shall be formed to conduct the simplified procedures. Formation, activity and responsibility of such commission are established in Article 16.

Article 91. Simplified Public Contract Technical Specification

Unless provided otherwise under this Chapter, the requirements to technical specifications in simplified procedures are set forth in Article 25 of this Law.

Article 92. Providing with Simplified Public Contract Documents

1. Contract documents shall be provided to the suppliers from the date on which invitation to tender was published or dispatched to the suppliers until the final date for the receipt of tenders fixed in the contract documents. Contract documents shall be provided

to any supplier who filed a request to participate or any candidate who is invited within 3 working days after the receipt of their request.

2. Contract documents, including invitations to tender, notices, explanations, additional or other documents shall be delivered to the suppliers in person, sent by registered mail, or by registered mail and by fax. Where contracting documents are sent by mail, the date of submission shall be the date of dispatch.

3. Contracting authorities may choose to place the contract documents on a website, too. In such event the website address must be specified in the contract notice. Contract documents may not be placed on the website before the contract notice is published in the information supplement to the official gazette "*Valstybės žinios*". If a contracting authority chooses to place the contract documents on the website, it shall forward the printed copies of the documents to any supplier who requests so.

4. The contracting authority may charge all suppliers a single rate fee for the contract documents, which shall consist of the actual costs of copying and sending of the documents to the suppliers. An additional fee may be charged for translation of documents into a foreign language; this fee shall consist of the translation costs.

Article 93. Clarification of Simplified Public Contract Documents

1. Candidates may request a clarification of the contract documents from the contracting authority. The contracting authority shall respond to any written request by a candidate for clarification of the contract documents provided it is received not later than 6 working days before the final date fixed for the receipt of tenders. The contracting authority must respond to the request not later than within 3 days from the date of receipt of the request. When responding to a candidate, the contracting authority shall simultaneously send explanations to all candidates to whom it has presented contract documents, without identifying the source of the request. The response should be communicated to the candidates so that they receive it not later than 3 days before the final date fixed for the receipt of tenders.

2. At any time prior to the deadline for receipt of tenders, the contracting authority may explain the contract documents on its own initiative. The clarification, however, may not have an effect of changing the information advertised, and must be communicated to all candidates to which the contracting authority has provided the contract documents not later than 3 days before the final date fixed for the receipt of tenders.

3. If the contracting authority convenes a meeting of candidates, it must prepare minutes of the meeting containing the requests submitted at the meeting for clarification of the contract documents, and its responses to those requests. Minutes must be dispatched to all candidates taking part in the procurement procedures so that they receive it not later than 3 days before the final date fixed for the receipt of tenders; the contracting authority shall notify thereof when clarifying the notice.

4. If the contracting authority can not provide clarification of the contract documents or dispatch such clarifications or minutes of the meeting of candidates so that they are received not later than 3 days before the final date fixed for the receipt of tenders, it must postpone the time limit fixed for the receipt of tenders for a reasonable period enabling the candidates to take the clarification or minutes of the meetings into account in preparing their tenders.

5. Notices of the postponement of the final date fixed for the receipt of tenders must be dispatched to all candidates to whom the contract documents have been presented.

Article 94. Qualification of Candidates for Low Value Contracts

Contracting authority must verify whether the candidates in the simplified procedure for the award of a public contract is capable of fulfilling the contract. The verification procedure to be followed is described in Articles 32 to 38 of this Law.

Article 95. Validity of Tenders in Simplified Procurement Procedures

1. Contracting authority shall specify the requested period of validity in the contract documents. Such period may not exceed 90 days from the final date set for receipt of tenders. In the event the procurement procedure is suspended, the period of validity shall be extended for the period of extension.

2. In the contract documents, contracting authorities shall request the suppliers to specify the period of validity in their tenders, which may not be shorter than requested by the contracting authority. Where the period of validity is not specified in the tender, it shall be deemed to be valid for the time period fixed in the contract documents.

3. The period of validity of tenders may be extended before it expires. The period may be extended by the participants of the procedure at the contracting authority's request. In its request to extend the period of validity, the contracting authority shall

specify the new period for the validity of tenders and the date until which candidates must communicate either their acceptance or refusal to extend the period of validity. If the candidate accepts to prolong the period of validity, he shall communicate his acceptance to the contracting authority and confirm the prolongation of the validity period, or provide a new security of the validity of tender, if such security has been requested. If a supplier fails to respond to the request of a contracting authority to extend the period of effectiveness of tenders or fails to extend the period of tender security or to provide new tender security until the date specified, it shall be deemed that such supplier has rejected the request and withdrawn his tender. If the supplier has withdrawn the tender under the above circumstances, he shall not lose the tender security.

Article 96. Preparing, Submitting, Amending and Withdrawing Tenders in the Simplified Procurement Procedure

1. In the contract documents, the contracting authority must request the candidates to submit their tenders in sealed and stamped envelopes, with the name of the procedure, name of the candidate and address written on them. If the contracting authority intends to choose the most economically advantageous tender, in the contract documents it shall request the suppliers to submit two sealed and stamped envelopes: one with the price offer, the other with the remaining parts of the tender (technical data and other information or documents). The two envelopes shall be put into another sealed and stamped envelope. The tenders (with supplements) must be numbered and bound so that it is not possible to remove, insert or change pages without injuring the binding. The requirement to submit the tender or its parts in envelopes shall not apply if the contracting authority accepts tenders submitted by electronic means. The tenders shall be endorsed by the candidate's signature. The contract documents may also impose other requirements to prove the authenticity of tenders.

2. The tenders may be submitted by electronic means only in accordance with the requirements set in Article 17 of this Law.

3. The candidates shall submit their tenders before the period for the receipt of tenders expires (day and time). The contracting authority shall register the tenders received after the deadline for submission, and send them back to the candidates unopened.

4. The deadline fixed for receipt of tenders must be sufficiently long to allow drawing up and submitting tenders. When fixing such deadline, the contracting authority must take into account the complexity of the contract and the actual time necessary for drawing up the tenders.

5. The deadline fixed for receipt of tenders may not have the effect of an artificial restriction on suppliers to take part in the procedure, or to create favourable conditions to some specific suppliers.

6. Where a supplier requested the contract documents or any part thereof in due time, and the contracting authority failed, for any reason, to provide these within the set time limits, or where tenders can be drawn up only after a meeting with the contracting authority or a visit to the site to inspect performance or delivery conditions, and such meeting or visit originally was not planned, the contracting authority shall extend the time limits for the receipt of tenders for as many days as the contracting authority delayed the supply with contract documents, or so that all suppliers concerned may be aware of all the new information needed to produce a tender.

7. If requested by a supplier, the contracting authority shall produce a confirmation of the receipt of the tender, by specifying the date and time of the receipt.

8. Before the time limit for the receipt of tenders expires, a participant of the procedure may modify or withdraw its tender without losing the tender security.

Article 97. Tender Security and Security for the Performance of the Contract in Simplified Procurement Procedures

The contracting authority may request that the validity of tender is secured, and must request that the performance of the contract be secured by the candidates. Requirements on security of tenders and contracts are outlined in Article 30 of this Law.

Article 98. Opening Tenders, Analysis and Evaluation of Tenders in Simplified Procurement Procedures

1. Opening of tenders shall be subject to Article 31 of this Law.

2. Assessment of tenders in simplified procurement procedures shall be subject to the provisions of Articles 39 and 40 of this Law.

3. Tenders shall be compared and evaluated in Litas. Where the contracting authority allows price quotations in foreign currency, the prices offered in such tenders

shall be converted into Litas using the official rates of exchange fixed and published by the Bank of Lithuania on the last day of the time period fixed for receipt of tenders.

Article 99. Termination of the Simplified Procurement Procedures

Having received the consent of the Public Procurement Office the contracting authority may at any time before the award of the contract terminate the simplified procurement procedure should the unforeseeable circumstances arise. The consent of the Public Procurement Office shall not be needed for terminating procurement procedures carried out following the usual commercial practice and for terminating procurement procedures conducted in the manner laid down in Article 85 of this Law.

Article 100. Informing Candidates and Tenderers

1. The contracting authority shall as soon as possible, but not later than within 3 working days from reaching the decision inform the candidates and tenderers of:

- 1) the rejection of his requests or tenders and the reasons thereof;
- 2) the sequence of framework agreements in cases where the sequence is set;
- 3) the decision on the approval of results of the design contest.

2. Having awarded the procurement contract the contracting authority shall as soon as possible, but not later than within 3 working days from the award of the procurement contract dispatch notices of the award of the contract, indicating the supplier awarded the procurement contract.

SECTION TWO

SIMPLIFIED OPEN PROCEDURE

Article 101. Contract Documents in Simplified Open Procedure

1. The contracting authority shall provide contract documents to all candidates who filed their requests to participate in the simplified open procedure. The contract documents shall specify the following information:

- 1) instructions for preparing and submitting tenders (time limits, place and means of submission);
- 2) the period of validity of tenders;

3) identification of supplies, services or works, requirements for their technical, aesthetic, functional characteristics and quality, plans, drawings and projects, amounts, the nature of services accidental to the supplies procured, terms of delivery or completion, running costs and other information describing the procurement object according to the requirements in Article 25 of this Law;

4) information whether the tenders for lots are allowed; description of the lots;

5) information if variants are allowed;

6) information how to determine and express the price in the tenders; the price must include all expenses and taxes;

7) requirements on qualification of suppliers;

8) documents and information to be provided by suppliers to prove their qualification and meeting the requirements;

9) requirement to present a declaration in the form established by the institution authorised by the Government of the Republic of Lithuania to the effect that he has not given and does not intend to give the state employees (personnel) of the contracting authority any money or presents, has not rendered them any services or other remuneration for the conditions provided or not provided in relation to the actions favourable for the award of contracts;

10) the place, date and time for the opening of envelopes;

11) procedure for opening envelopes and examining tenders;

12) information about the currency in which prices should be quoted;

13) tender evaluation criteria and their relative weight in the total score, rules and procedures of evaluation;

14) terms and conditions of the contract offered to the parties for signing by the contracting authority, or a draft contract;

15) requirements for tender security and security for the performance of the public contract;

16) the means by which the candidates may seek clarification of the contract documents;

17) procedure for the modification or withdrawal of tenders;

18) full names, addresses, telephone and fax numbers of the officers and employees of the contracting authority who are authorised to communicate directly with

and to receive communications directly from suppliers in connection with the procurement procedure, without the intervention of an intermediary;

19) in the event the contracting authority reserves the right to commence simplified negotiated procedure under the condition specified in subparagraph 2 of paragraph 7 of Article 86 of this Law - information about such right.

2. It may be required in the contract documents that the candidate specify in his tender any proposed subcontractors and the share of the contract he may intend to subcontract. The said reference shall not affect the supplier's responsibility for the performance of the contract the award whereof is intended.

3. The contracting authority may lay down special conditions for the performance of a contract, relating to social and environmental requirements, provided that these are compatible with Community law.

4. Contract notice shall be a constituent part of the contract documents. The contracting authority may choose not to repeat information provided in the notices except when requested by the supplier.

5. The contracting authority shall draft contract documents in compliance with the provisions of this Law. The contract documents shall be precise, clear, without ambiguities so that that the suppliers could submit tenders and the contracting authority purchase what it needs.

Article 102. Time Limits for Receipt of Tenders in Simplified Open Procedure

The contracting authority shall fix a period for receipt of tenders of at least 14 days for public supplies and services contracts, and at least 21 day for public works contracts.

Article 103. Peculiarities of Simplified Open Procedure

1. In the simplified open procedure, contracting authorities may not negotiate with suppliers the terms and conditions of the contract or tenders.

2. The simplified open procedure shall occur if there is at least one tender that has not been rejected.

SECTION THREE

SIMPLIFIED RESTRICTED PROCEDURE

Article 104. Advertising and Carrying out Simplified Restricted Procedure

Simplified restricted procedure shall be carried out in two phases:

- 1) by means of a contract notice, suppliers are invited to submit their requests to participate in the simplified restricted procedure, and to provide information about their qualification;
- 2) candidates selected by the contracting authority are invited to submit their tenders.

Article 105. Contract Documents in Simplified Restricted Procedure

1. In addition to the information listed in Article 101 of this Law, the contract documents in the simplified restricted procedure shall contain the following:

- 1) requirements for drawing up and submission of requests to participate (time limits, place and manner of submission);
- 2) criteria and procedure for assessment of the candidates' qualification;
- 3) the minimum number of candidates to be invited by the contracting authority to submit their tenders.

2. The documents of the simplified restricted procedure containing information about the qualification requirements for candidates, verification of qualification, assessment, receipt of tenders, etc. shall be provided by the contracting authority to the suppliers (published) in the first phase of the procedure.

Article 106. Requests to Participate in the Simplified Restricted Procedure

1. When drawing up and submitting requests to participate in the simplified restricted procedure, the suppliers shall follow the contract documents (i.e., the part of the contract documents specifying qualification requirements for suppliers and the rules of filing the requests to participate).

2. The time limit fixed for the receipt of requests to participate in the simplified restricted procedure shall be at least 7 days after the date of publishing the contract notice.

Article 107. Verification and Assessment of Candidates Qualification

1. Contracting authority shall verify the compliance of the candidates to the minimum qualification requirements according to Articles 33 to 38 of this Law.

2. When selecting candidates for further tendering, contracting authority shall follow the criteria and procedures outlined in the contract documents and assess the qualification of all candidates meeting the minimum qualification requirements. The contracting authority may not select fewer candidates than the minimum number of candidates specified in the contract notice. The minimum number of candidates that the contracting authority may specify in the contract notice is 5. Where the number of interested suppliers or suppliers remaining after qualification procedure is less than indicated, the contracting authority shall ask all the remaining candidates to submit their tenders.

Article 108. Invitation to Submit Tenders

1. The contracting authority shall send the remaining contract documents and the invitation to submit tenders to the candidates selected according to the rules referred to in Article 107 of this Law.

2. The contracting authority shall fix a period for receipt of tenders of at least 14 days for public supplies and services contracts, and at least 21 day for public works contracts.

Article 109. Peculiarities of the Simplified Restricted Procedure

1. In the simplified restricted procedure, contracting authorities may not negotiate with suppliers the terms and conditions of the contract or tenders.

2. The simplified restricted procedure shall occur if there is at least one tender that has not been rejected.

SECTION FOUR**SIMPLIFIED NEGOTIATED PROCEDURES WITH OR WITHOUT PUBLICATION OF A CONTRACT NOTICE****Article 110. Informing the Suppliers of the Simplified Negotiated Procedure**

1. In the simplified negotiated procedure with publication of a contract notice, the contract notice shall be published following the rules set forth in Article 89 of this Law.

2. The contracting authority shall inform the candidates in writing about the simplified negotiated procedure without publication of a contract notice.

Article 111. Documents of the Simplified Negotiated Procedure

1. The documents of the simplified negotiated procedure shall include the information specified in Article 101 of this Law. In addition, the contracting authority shall specify the date and time of negotiations, and other necessary information.

2. In the event of the simplified negotiated procedure without publication of a contract notice, where only one supplier is invited to negotiate, the contracting authority may choose to provide only parts of the information referred to in paragraph 1 of this Article, if it deems that the remaining information is not necessary.

3. Where the simplified negotiated procedure without publication of a contract notice is chosen on the grounds referred to in subparagraph 2 of paragraph 7 of Articles 86 of this Law, the contract documents of the simplified negotiated procedure shall be the contract documents of the simplified open or restricted procedures, to the extent they do not prejudice the subject matter of negotiations.

Article 112. Time Limits for the Receipt of Tenders in Case of Simplified Negotiated Procedure

1. In case of the simplified negotiated procedure with publication of a contract notice, the contracting authority shall fix a period for submission of initial tenders of at least 14 days after publication of a contract notice for public supply and services contracts, and at least 21 day for public works contracts.

2. In the simplified negotiated procedure without publication of a contract notice the time limit for the receipt of tenders shall be fixed by the contracting authority taking into account the complexity of the procurement object and all tenders of the suppliers meeting the minimum qualification requirements shall be the initial tenders for the simplified negotiated procedure.

Article 113. Verifying Qualification of Suppliers and Invitation to Negotiate

1. The contracting authority shall verify according to Articles 32 to 38 of this Law the compliance of the suppliers to the minimum qualification requirements fixed in the contract documents.

2. The contracting authority shall invite for negotiations all the suppliers who meet the minimum qualification requirements and whose initial tenders meet the fixed requirements, unless simplified negotiated procedure without publication of a contract notice is chosen in the cases specified in subparagraph 2 of paragraph 7 of Article 86 of this Law.

Article 114. Negotiations with Selected Suppliers

1. The procurement commission shall have the right to negotiate the price, specifications of the products, services or works, and any other conditions of the tender.

2. During the negotiations, the following rules shall apply:

1) parties of negotiations shall not disclose any technical, commercial or price-related information to any third party;

2) the same requirements shall apply to all participants of the simplified negotiated procedure; all participants shall be provided the same conditions;

3) the procedure of negotiations shall be recorded in the minutes, to be signed by the chairperson of the Procurement Commission and representatives of the supplier (candidate) who participated in the negotiations;

Article 115. Final Tenders and their Evaluation in the Simplified Negotiated Procedure

1. The final tenders in the simplified negotiated procedure shall be the minutes of negotiations signed by the parties, as well as the initial tenders of suppliers, to the extent that they have not been changed during the process of negotiations.

2. Analysis, evaluation and comparison of final tenders in the simplified negotiated procedure shall be subject to Article 98 of this Law.

3. The simplified negotiated procedure shall occur provided that there is at least one supplier whose tender and the results of negotiations with him comply with the requirements of the contracting authority.

SECTION FIVE

SIMPLIFIED DESIGN CONTEST

Article 116. Conditions for the Simplified Design Contest

Simplified design contest shall be used when awarding public service contracts in the fields of area planning, architecture, engineering, data processing, artistically or culturally complex services or services of a similar character.

Article 117. Conducting Simplified Design Contest

1. The simplified design contest shall be advertised following the provisions of Article 89 of this Law.

2. The simplified design contest may be used to select a supplier/suppliers who submitted the best plan or design (usually for area planning, architecture and engineering or data processing or artistically or culturally complex or of similar character plan or design) in order to achieve one of the objectives below:

1) to award the public services contract to the successful candidate;

2) to award prizes or otherwise remunerate the successful candidate, successful candidates or participants of the design contest; in such case the contracting authority may proceed with the negotiated procedure without publication of a contract notice, by inviting the successful candidate or all successful candidates to negotiate.

3. Both the legal and natural persons and groups of such persons shall be entitled to take part in the simplified design contest.

4. Participation in the design contest may not be restricted on the geographical or any other grounds of discriminating nature.

5. The final time limit for receipt of tenders fixed in the contract documents shall be at least 28 days after publishing the contract notice.

6. The contracting authority may decide to conduct a pre-qualification selection of candidates before inviting them to submit their projects and drawings. In such case the qualification criteria set forth by the contracting authority in the contract documents shall be non-discriminatory and ensure genuine competition.

7. The Government of the Republic of Lithuania or an institution authorised by it shall approve the rules for conducting simplified design contest.

Article 118. The Jury in the Simplified Design Contest

1. Drawings and projects submitted by the participants shall be evaluated by the jury formed by the contracting authority or an authorised body, to which the contracting authority shall give all the powers necessary to evaluate the drawings or plans and to determine the successful candidate. The jury shall be composed exclusively of natural persons who are independent of participants in the contest. Where a particular professional qualification is required from participants in a simplified design contest, at least a third of the members of the jury shall have that or similar qualification.

2. The jury shall be autonomous in its decisions or opinions. The jury shall evaluate anonymous drawings or sketches (the jury may find out the name of the tenderer only after the jury has taken a decision as regards the best design or project).

3. The evaluation of the drawings and projects submitted by the candidates shall be based only on the criteria set forth in the contract documents, and these criteria may not necessarily be that of economic advantage or the lowest price.

4. Decisions shall be reached only in the meetings of the jury. The proceedings of the jury shall be entered into minutes. It shall record its ranking of projects in a report, signed by its members, made according to the merits of each project, together with its remarks and any points which may need clarification.

5. After the jury reaches its opinion or decision, candidates may be invited, if need be, to answer questions which the jury has recorded in the minutes to clarify any aspects of the projects. Complete minutes shall be drawn up of the dialogue between jury members and candidates

**SECTION SIX
USUAL COMMERCIAL PRACTICE****Article 119. Simplified Procurement by Means of the Usual Commercial Procedure**

1. Procurement by means of usual commercial practice shall be conducted by the civil servants or employees appointed by the management of the contracting authority who must be of impeccable reputation, have signed a declaration of impartiality and a statement of confidentiality or the commission specified in Article 90 of this Law. The procurement shall be conducted according to the procurement rules approved by the contracting authority. Procurement by means of usual commercial practice shall not be subject to the requirements set forth in paragraphs 1 to 7 of Article 18, Article 89, Articles 91 to 98, Article 100 of this Law

2. The decision to award the contract shall be subject to approval by the head of the administration of the contracting authority, or a civil servant or employee authorised by him.

3. Procurement by means of usual commercial practice shall be conducted following the principles and objectives of procurement specified in Article 3 of this Law. Public supplies, services or works contracts shall be awarded to those tenderers, who offered the lowest price or the highest economic advantage. The contracting authority may conclude the framework agreement with one or several suppliers. The contracting authority shall keep the information about price quotations from the suppliers, and provide it to the supervising authorities if requested.

4. Public contracts the value of which is below LTL 10 000 may be concluded verbally.

CHAPTER V

ANALYSIS OF DISPUTES, RECONCILIATION, PAYMENT FOR DAMAGES

Article 120. Analysis of Disputes about the Actions or Decisions of a Contracting Authority

1. Every supplier who has an interest in procurement and believes that the contracting authority has not complied with the requirements of this Law and violated or will violate his lawful interests, shall have the right to file a claim about the actions or decisions of the contacting authority prior to the adoption of the decision on the successful tender. The filing of the claim shall be the mandatory stage of pre-trial dispute analysis.

2. Where upon review of the claim the supplier's requirements were not met or were only partly met, or the claim was not analysed according to the procedure and within the time limits established in Article 121 of this Law, the supplier shall have the right to apply to court in the manner set in Article 122 of this Law.

3. The supplier may also file an application for reconciliation according to the procedure set in Article 125 of this Law.

Article 121. Procedure and Time Limits for Filing and Review of Claims

1. Claims shall be filed with the contracting authority in writing within 5 days from the day the supplier became aware or should have become aware of the violation of his lawful interests.

2. The contracting authority shall review only those claims which have been received before the adoption by the Commission of the decision on the successful tender.

3. Upon receiving the supplier's written claim, the contracting authority shall suspend procurement procedures until the claims are fully examined and a decision is taken. Procurement procedures shall not be suspended upon receipt of the authorisation of the Public Procurement Office if, upon suspension of the procurement procedure, the supplier would sustain much heavier losses than those which could be sustained by the supplier who filed the claim.

4. The contracting authority must extend the time limits of procurement procedures for the period of suspension of procurement procedures. After a decision on the claim is taken the procurement procedures shall be continued. In case the time limits of procurement procedures notified to the suppliers are changed due to consideration of claims, the contracting authority shall dispatch to suppliers a notice to the effect, indicating the reasons for the extension of time limits.

5. The contracting authority must examine the claims and take a justified decision within 5 days of the receipt of the claim as well as notifying the supplier who filed the claim of the taken decision not later than on the next working day.

Article 122. Time Limits for Filing and Reviewing of Claims

1. The supplier shall have the right to apply to court filing a claim within 10 days from the day the supplier became aware or should have become aware of the reviewing of the claim at the contracting authority. In case of failure to review the claim within the

establishing time have the right to file a claim with the court within 10 days from the day when the claim had to be reviewed

2. The claims referred to in paragraph 1 of this Article shall be reviewed following the procedures set in the code of Civil Procedure of the Republic of Lithuania. The regional courts shall review the cases as the courts of the first instance.

3. The court shall apply the provisional protective measure – suspension of procurement procedures on the basis of the principle of economic advantage. investigate the complaint following the procedures set forth in the Code of Civil Procedure of the Republic of Lithuania.

4. The claim or appeal must be reviewed within 60 days from the day of institution of the proceedings or acceptance of the appeal.

Article 123. Compensation for Damages

If the contracting authority or the supplier fails to discharge its obligation under this or other Laws or discharges them improperly, or performs acts prohibited by this Law, then the injured party shall have the right to claim the damages in court.

Article 124. Reviewing Complaints Regarding Violation of the EU Legislation

1. Having received an official letter from the Commission of the European Communities about the review of the infringement, the contracting authority shall immediately, but not later than within 3 working days, provide the Public Procurement Office with all information relevant to the contract concerned.

2. Having received an official letter from the Commission of the European Communities about the review of the infringement, the Public Procurement Office shall provide the Commission of the European Communities within 21 days, where the letter refers to procurement regulated under Chapter II or within 30 days, where the letter refers to procurement regulated under Chapter III of this Law, with the following:

- 1) a confirmation that the infringement has been removed;
- 2) a grounded explanation of failure to remove the infringement, if the removal of the infringement is refused;
- 3) information about the suspension of the procurement procedure, if the Public Procurement Office, the court or any other authorised institution makes a decision to suspend it.

3. Having received an official letter from the Commission of the European Communities about the review of the infringement, the Public Procurement Office shall be entitled to file a claim with the court, if it thinks that the contracting authority violated provisions of this Law and failed to remove the violation.

Article 125. Reconciliation

1. When conducting the procurement procedures specified in Chapter III of this Law, every candidate or tenderer who believes that the contracting authority has not complied with the requirements of this Law and violated or will violate his lawful interests, shall have the right to approach, prior to the adoption of the decision on the successful tender, the Commission of the European Communities and request reconciliation. The request for reconciliation may also be filed with the Public Procurement Office, which will forward this request to the Commission of the European Communities without delay.

2. Upon receipt of the notice of the proposal to start reconciliation, the contracting authority must immediately communicate its reply to the Commission of the European Communities and, if affirmative, inform about the contract award procedure undertaken and the actions that could result in damaging the interests of candidates or tenderers.

3. The candidate or tenderer and the contracting authority involved in the reconciliation procedure shall approve of the arbiter appointed by the Commission of the European Communities and shall additionally appoint one arbiter each. Each arbiter shall be entitled to select two experts. The parties to the reconciliation procedure shall have the right to suspend any expert selected by the arbiter

4. The candidate or the tenderer and the contracting authority involved in the reconciliation procedure, as well as other candidates or tenderers taking part in the procurement procedures may present their explanations, claims, demands or other statements to the arbiters both in writing, and verbally.

5. Unless the parties of the reconciliation procedure agree otherwise, the participation costs shall be borne by the candidate or tenderer who applied for reconciliation and the contracting authority, in addition, they shall each bear half of the costs of the procedure, excluding the costs of the intervening parties.

6. Both parties of the reconciliation procedure may request the termination of the reconciliation procedure at any time.

7. Where, during the reconciliation procedure, an interested person other than the person requesting the reconciliation procedure, is pursuing judicial review proceedings, the contracting authority shall notify the Commission of the European Communities thereof. The Commission of the European Communities shall inform that person that a request has been made to apply the reconciliation procedure and shall invite that person to indicate within a given time limit whether he agrees to participate in that procedure.

8. Actions taken during the reconciliation procedure shall be without prejudice to any action taken under Article 124 of this Law regarding investigation of infringement of the EU legislation or to the rights of the candidate or tenderer requesting the reconciliation procedure, of the contracting authority or of any other person.

Article 126. Attestation

1. Contracting authorities operating in water, energy, transport and telecommunication sectors may submit its procurement procedures to an independent assessor for assessment as to whether these procedures comply with the procurement Directives and Regulations of European Communities and this Law.

2. The costs of assessment are to be born by the contracting authority.

3. The Government of the Republic of Lithuania or the institution authorised by it shall approve the rules for conducting attestation of procurement procedures conducted by contracting authorities operating in water, energy, transport and telecommunication sectors and requirements for independent experts.

Article 127. Supervision of Public Procurement, Liability of the Executives or other Authorised Persons of the Contracting Authority

1. The public procurement shall be supervised by the Public Procurement Office and the authorised state institutions within the limits of their competence.

2. The bodies supervising public procurement shall have the right to observe all contract award procedures and, in case of necessity, to video tape the meeting of the Procurement Commission and other contract award procedures.

3. The executives or other authorised persons of the contracting authority (procurement commission members and experts) who violate this Law shall be held liable in accordance with the procedure established by law.

4. Having violated this Law, the heads of the contracting authority or its authorised persons (members, experts of the Commission, other persons involved in the procurement) shall be held liable according to the procedure established by law.

ANNEX I
to the Law of the Republic of Lithuania
on Public Procurement

NACE CODES¹

REFERRED TO IN PARAGRAPH 26 OF ARTICLE 2 OF THE REPUBLIC OF LITHUANIA LAW ON PUBLIC PROCUREMENT

List of the Economic Activities in the European Community					
Section F			Construction		CPV code
Division	Group	Class	Subject	Notes	
45			Construction	This division includes: Construction of new buildings and works, restoring and common restoration and repair	45000000
	45.1		Site preparation		45100000
		45.11	Demolition and wrecking of buildings; earth moving	The class includes: - demolition of buildings and other structures - clearing of building sites - earth moving: excavation, landfill, levelling and grading of construction sites, trench digging, rock removal, blasting, etc. - site preparation for	45110000

List of the Economic Activities in the European Community					
Section F			Construction		CPV code
Division	Group	Class	Subject	Notes	
				mining: - overburden removal and other development and preparation of mineral properties and other sites This class also includes: - building site drainage - drainage or agricultural or forestry land	
		45.12	Test drilling and boring	The class includes: - test drilling, test boring and core sampling for construction, geophysical, geological or similar purposes The class excludes: - drilling of production oil or gas wells, see 11.20) - water well drilling, see 45.25 - shaft sinking, see 45.25 - oil and gas file exploration, geophysical, geological and seismic	45120000

List of the Economic Activities in the European Community					
Section F			Construction		CPV code
Division	Group	Class	Subject	Notes	
				surveying, see 74.20	
	45.2		Building of complete constructions or parts thereof; civil engineering		45200000
		45.21	General construction of building and civil engineering works	<p>This class includes:</p> <ul style="list-style-type: none"> construction of all types of buildings construction of civil engineering constructions: <ul style="list-style-type: none"> bridges, including those for elevated highways, viaducts, tunnels and subways long-distance pipelines, communication and power lines; urban pipelines, urban communication and power lines; ancillary urban works assembly and erection of prefabricated constructions on the site <p>This class excludes:</p> <ul style="list-style-type: none"> service activities incidental to oil and gas extraction, see 	45210000

List of the Economic Activities in the European Community					
Section F			Construction		CPV code
Division	Group	Class	Subject	Notes	
				<p>11.20</p> <p>erection of complete prefabricated constructions from self-manufactured parts not of concrete, see divisions 20, 26 and 28</p> <p>construction work, other than buildings, for stadiums, swimming pools, gymnasiums, tennis courts, golf courses and other sports installations, see 45.23</p> <p>building installation, see 45.3</p> <p>building completion, see 45.4</p> <p>architectural and engineering activities, see 74.20</p> <p>project management for construction, see 74.20</p>	
		45.22	Erection of roof covering and frames	<p>This class includes:</p> <p>Erection of roofs, roof covering and waterproofing,</p>	45220000
		45.23	Construction of highways, roads, airfields and sports facilities	<p>This class includes:</p> <p>construction of highways, streets, roads, other vehicular and pedestrian ways</p>	45230000

List of the Economic Activities in the European Community					
Section F			Construction		CPV code
Division	Group	Class	Subject	Notes	
				and pedestrian ways construction of railways construction of airfield runways construction work other than buildings, for stadiums, swimming pools, gymnasiums, tennis courts, golf courses and other sports installations painting of markings on road surfaces and car parks This class excludes: preliminary earth moving, see 45.11	
		45.24	Construction work for water projects	This class includes: construction of waterways, harbour and river works, pleasure ports (marinas), locks, etc. dams and dykes dredging surface work	45240000
		45.25	Other construction work involving special trades	This class includes: construction activities specialising in one aspect common to different kinds of	45250000

List of the Economic Activities in the European Community					
Section F			Construction		CPV code
Division	Group	Class	Subject	Notes	
				structures, requiring specialised skill or equipment: construction of foundations, including pile driving water well drilling and construction, shaft sinking erection of non-self-manufactured steel elements steel bending bricklaying and stone setting scaffolds and work platform erecting and dismantling, including renting of scaffolds and work platforms, erection of chimneys and industrial ovens The class excludes: Renting of scaffolds without erection and dismantling see 71.32	
	45.3		Building installation		45300000
		45.31	Installation of electrical wiring and fittings	This class includes: installation in buildings or other construction projects of:	45310000

List of the Economic Activities in the European Community					
Section F			Construction		CPV code
Division	Group	Class	Subject	Notes	
				electrical wiring and fittings telecommunications systems electrical heating systems residential antennas and aerial fire alarms burglar alarm systems lifts and escalators lightning conductors, etc.	
		45.32	Insulation work activities	The class includes: installation in buildings or other construction projects of thermal, sound or vibration insulation This class excludes: waterproofing, see 45.22	45320000
		45.33	Plumbing	This class includes: Installation in buildings or other construction objects of: plumbing and sanitary equipment gas fittings heating, ventilation, refrigeration or air-conditioning equipment and ducts	45330000

List of the Economic Activities in the European Community					
Section F			Construction		CPV code
Division	Group	Class	Subject	Notes	
				sprinkler systems This class excludes: installation of electrical heating systems, see 45.31	
		45.34	Other building installation	This class includes: installation of illumination and signalling system for roads, railways, airports and harbours installation in buildings or other construction projects of fittings and fixtures n.e.c.	45340000
	45.4		Building completion		45400000
		45.41	Plastering	This class includes: application in buildings or other construction projects of interior or exterior plaster or stucco, including related lathing materials	45410000
		45.42	Joinery installation	This class includes: installation of non self-manufactured doors, windows, door and window frames, fitted kitchen staircases, shop fittings and the like, of wood or other materials interior completion such as ceilings, wooden wall coverings, movable	45420000

List of the Economic Activities in the European Community					
Section F			Construction		CPV code
Division	Group	Class	Subject	Notes	
				partitions, etc. This class excludes: laying of parquet and other wood floor coverings, see 45.43	
		45.43	Floor and wall covering	This class includes: Laying, tiling, hanging or fitting in buildings or other construction projects of : ceramic, concrete or cut stone wall or floor tiles, parquet or other wood floor coverings carpets and linoleum floor coverings, including of rubber or plastic terrazzo, marble, granite or slate floor or wall covering wallpaper	45430000
		45.44	Painting and glazing	This class includes: interior and exterior painting of buildings painting of civil engineering structures installation of glass, mirror, etc. this class excludes: installation of windows, see 45.42	45440000

List of the Economic Activities in the European Community					
Section F			Construction		CPV code
Division	Group	Class	Subject	Notes	
		45.45	Other building completion	This class includes: Installation of private swimming pools steam cleaning, sand blasting and similar activities for building exteriors other building completion and finishing work n.e.c. This class excludes: interior cleaning of buildings and other structures, see 74.70	45450000
	45.5		Renting of construction or demolition equipment with operator		45500000
		45.50	Renting of construction or demolition equipment with operator	This class excludes: renting of construction or demolition machinery and equipment without operators, see 71.32	

(1) The NACE classifier codes prepared by the Department of Statistics under the Government of the Republic of Lithuania according to *Nomenclatures des Activités de Communité Européenne -NACE rev. 1* according to the Classification of Economic Activities in the European Community, approved by the Government of the Republic of Lithuania by Resolution No. 696 of 17 May 1995 “On the Classification of Economic Activities”.

Note: In the case of any difference of interpretation of works between the CPV and the NACE, the NACE nomenclature shall apply.

ANNEX II
to the Law of the Republic of Lithuania
on Public Procurement

SERVICES REFERRED TO IN PARAGRAPH 27 OF ARTICLE 2 OF THE REPUBLIC OF
LITHUANIA LAW ON PUBLIC PROCUREMENT

A SERVICES

Categories	Services	Reference to Central Product Classification (CPC ⁽¹⁾)	Reference to the CPV
1.	Maintenance and repair services	6112, 6122, 633, 886	50100000 to 50982000 (except 50310000 to 50324200 and 50116510-9, 50190000-3, 50229000-6, 50243000-0)
2.	Land transport services ⁽²⁾ , including armoured car services and courier services, except mail transportation by land services	712 (except 71235), 7512, 87304	60112000-6 to 60129300-1 (except 60121000 to 60121600, 60122200-1, 60122230-0) and 64120000-3 to 64121200-2
3.	Passenger and freight transportation by air services, except mail transportation by air services	73 (except 7321)	62100000-3 to 62300000-5 (except 62121000-6, 62221000-7)
4.	Mail transportation by air and land ⁽³⁾ services	71235, 7321	60122200-1, 6012223 to 0 62121000-6, 62221000-7
5.	Telecommunications services	752	64200000-8 to 64228200-2, 72318000-7 and from 72530000-9 to 72532000-3
6.	Financial services: a) insurance,	previously 81, 812, 814	66100000-1 to 66430000-3 and 67110000-1 to 67262000-1 ⁽⁴⁾

Categories	Services	Reference to Central Product Classification (CPC ⁽¹⁾)	Reference to the CPV
	b) banking and investment ⁽⁴⁾		
7.	Computer and related services	84	50300000-8 to 50324200-4, 72100000-6 to 72591000-4 (except 72318000-7 and 72530000-9 to 72532000-3)
8.	Research and development services ⁽⁵⁾	85	73000000-2 to 73300000-5 (except 73200000-4, 73210000-7, 7322000-0)
9.	Accounting, auditing and book-keeping services	862	74121000-3 to 74121250-0
10.	Market research and public opinion polling services	864	74130000-9 to 74133000-0 and 74423100-1, 74423110-4
11.	Management consulting ⁽⁶⁾ and related services.	865, 866	73200000-4 to 73220000-0, 74140000-2 to 74150000-5 (except 74142200-8) and 74420000-9, 74421000-6, 74423000-0, 74423200-2, 74423210-5, 74871000-5, 93620000-0
12.	Architectural services: engineering and integrated engineering services; urban planning and landscape architectural services; engineering related scientific and technical consulting services; technical testing and analysis services	867	74200000-1 to 74276400-8 and from 74310000-5 to 74323100-0 and 74874000-6
13.	Advertising services	871	74400000-3 to 74422000-3 (except

Categories	Services	Reference to Central Product Classification (CPC ⁽¹⁾)	Reference to the CPV
			74420000-9 and 74421000-6)
14.	Building cleaning and residential property management services on a fee or contract basis	874 82201 – 82206	70300000-4 to 70340000-6 and 74710000-9 to 74760000-4
15.	Publishing and printing on a fee or contract basis	88442	78000000-7 to 78400000-1
16.	Sewage and refuse disposal; sanitation and other similar services	94	90100000-8 to 90320000-6 to 50190000-3, 50229000-6, 50243000-0

⁽¹⁾CPC applied for establishing the service sector regulated by the Law on Public Procurement.

⁽²⁾ Except railway transport services assigned to Category 18.

⁽³⁾ Except railway transport services assigned to Category 18.

⁽⁴⁾ Except financial services dealing with the issuing of currency, with the foreign currency exchange rate, dealing with public debt, management of foreign reserve assets or other policy sectors relating to transactions in securities or financial derivatives and central bank services. Services relating to the acquisition or rent of land, buildings or other immovable objects following any financial procedures or acquisition or rent of rights to the objects shall also be excluded; however, the financial services, provided prior to the conclusion, in the process of conclusion or after the conclusion of contracts of any form for the acquisition or rent of land, buildings or other immovable objects, whatever their form, shall fall within the sphere of application of the Law.

⁽⁵⁾ Except contracts for research or development services, which, however, are not only to the advantage of the contracting authority and which are fully paid for by the contracting authority.

⁽⁶⁾ Except arbitration and reconciliation services.

B SERVICES

Category	Service	Reference to Central Product Classification (CPC)	Reference to the CPV
17.	Hotel and restaurant services	64	55000000-0 to 55524000-9 and from 93400000-2 to 93411000-2
18.	Transport services by rail	711	60111000-9 and from 60121000-2 to 60121600-8
19.	Water transport services	72	61000000-5 to 61530000-9 and from 63370000-3 to 63372000-7
20.	Supporting and auxiliary transport services	74	62400000-6, 62440000-8, 62441000-5, 62450000-1, from 63000000-9 to 63600000-5 (except 63370000-3, 63371000-0, 63372000-7) and 74322000-2, 93610000-7
21.	Legal services	861	74110000-3 to 74114000-1
22.	Placement and supply services of personnel ⁽¹⁾	872	74500000-4 to 74540000-6 (except 74511000-4) and 95000000-2 to 95140000-5
23.	Investigation and security services, except armoured carrier services	873, except 87304	74600000-5 to 74620000-1
24.	Education and vocational training services	92	80100000-5 to 80430000-7
25.	Health and social services	93	74511000-4 and 85000000-9 to 85323000-9 (except 85321000-5 and

Category	Service	Reference to Central Product Classification (CPC)	Reference to the CPV
			85322000-2)
26.	Recreational, cultural and sporting services	96	74875000-3 to 74875200-5 and from 92000000-1 to 92622000-7 (except 92230000-2)
27.	other services ⁽²⁾		

⁽¹⁾Except Employment Contracts.

⁽²⁾Except Service Contracts intended for the acquisition of time for radio and television programme development, preparation for broadcasting, broadcasting of already developed radio and television broadcasts when performed by the contracting authority referred to in subparagraphs 1, 2 and 3 of paragraph 1 of Article 4 of this Law.

Note: In the case of any difference of interpretation of services between the CPC and the CPV, the CPV shall apply.

ANNEX III
to the Republic of Lithuania Law
on Public Procurement

DEFINITION OF CERTAIN TECHNICAL SPECIFICATIONS

For the purposes of this Law:

1) **technical specification in the case of public works contracts** means the totality of the technical prescriptions contained in particular in the tender documents, defining the characteristics required of a material, product or supply, which permits a material, a product or a supply to be described in a manner such that it fulfils the use for which it is intended by the contracting authority. These characteristics shall include levels of environmental performance, design for all requirements (including accessibility for disabled persons) and conformity assessment, performance, safety or dimensions, including the procedures concerning quality assurance, terminology, symbols, testing and test methods, packaging, marking and labelling and production processes and methods. The data shall also include rules relating to design and costing, the test, inspection and acceptance conditions for works and methods or techniques of construction and all other technical conditions which the contracting authority is in a position to prescribe, under general or specific regulations, in relation to the finished works and to the materials or parts which they involve;

2) **technical specification in the case of public supply or service contracts** means a specification in a document defining the required characteristics of a product or a service, such as quality levels, environmental performance levels, design for all requirements (including accessibility for disabled persons) and conformity assessment, performance, use of the product, safety or dimensions, including requirements relevant to the product as regards the name under which the product is sold, terminology, symbols, testing and test methods, packaging, marking and labelling, user instructions, production processes and methods and conformity assessment procedures;

3) **standard** means a technical specification approved by a recognised standardising body for repeated or continuous application, compliance with which is not compulsory and which falls into one of the following categories:

international standard: a standard adapted by an international standards organisation and made available to the general public,

European standard: a standard adopted by a European standards organisation and made available to the general public,

national standard: a standard adopted by a national standards organisation and made available to the general public;

4) **European technical approval** means a favourable technical assessment of the fitness for use of a product for a particular purpose, based on the fulfilment of the essential requirements for building works, by means of the inherent characteristics of the product and the defined conditions of application and use;

5) **Common technical specification** means a technical specification laid down in accordance with a procedure recognised by the Member States which has been published in the Official Journal of the European Union;

6) **technical reference** means any product produced by European standardisation bodies, other than official standards, according to procedures adopted for the development of market needs.

ANNEX IV

to the Republic of Lithuania Law
on Public Procurement

COMMUNITY LEGAL ACTS REFERRED TO IN PARAGRAPH 3 OF ARTICLE 71 OF
THE REPUBLIC OF LITHUANIA LAW ON PUBLIC PROCUREMENT

1. Transmission or distribution of gas or heat:
[Directive 98/30/EC of the European Parliament and of the Council of 22 June 1998 concerning common rules for the internal market in natural gas.](#)
2. Electricity generation, transmission or distribution:
[Directive 96/92/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 December 1996 concerning common rules for the internal market in electricity.](#)
3. Manufacture, transmission or distribution of drinking water:
there is no legal act.
4. Contracting authorities operating in railway services sector:
there is no legal act.
5. Contracting authorities operating in urban railway, tram, trolley-bus or bus services sector:
there is no legal act.
6. Contracting authorities operating in postal services sector:
[Directive 97/67/EC of the European Parliament and of the Council of 15 December 1997 on common rules for the development of the internal market of Community postal services and the improvement of quality of service.](#)
7. Prospecting and production of petroleum or gas:
[Directive 94/22/EC of the European Parliament and of the Council of 30 May 1994 on the conditions for granting and using authorizations for the prospection, exploration and production of hydrocarbons.](#)
8. Contracting authorities operating in sea and inland port or other terminals installation sector:
there is no legal act.
9. Coal and other solid fuel prospection and extraction:
there is no legal act.
10. Contracting authorities operating in the airport installation sector:

there is no legal act.

ANNEX

to the Republic of Lithuania Law
on Public Procurement

EU LEGAL ACTS IMPLEMENTED BY THE LAW ON PUBLIC PROCUREMENT

1. COUNCIL DIRECTIVE of 21 December 1989 on the coordination of the laws, regulations and administrative provisions relating to the application of review procedures to the award of public supply and public works contracts (89/665/EEC).
2. Council Directive 92/13/EEC of 25 February 1992 coordinating the laws, regulations and administrative provisions relating to the application of Community rules on the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors.
3. Regulation (EC) No 2195/2002 of the European Parliament and of the Council of 5 November 2002 on the Common Procurement Vocabulary (CPV) (Text with EEA relevance).
4. Commission Regulation (EC) No 2151/2003 of 16 December 2003 amending Regulation (EC) No 2195/2002 of the European Parliament and of the Council on the Common Procurement Vocabulary (CPV) (Text with EEA relevance).
5. Directive 2004/17/EC of the European Parliament and of the Council of 31 March 2004 coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors.
6. Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts.
7. Commission Regulation (EC) No 1874/2004 of 28 October 2004 amending Directives 2004/17/EC and 2004/18/EC of the European Parliament and of the Council in respect of their application thresholds for the procedures for the award of contracts.
8. 2005/15/EC: Commission Decision of 7 January 2005 on the detailed rules for the application of the procedure provided for in Article 30 of Directive 2004/17/EC of the European Parliament and of the Council coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors (notified under document C(2004) 5769).

9. Commission Directive 2005/51/EC of 7 September 2005 amending Annex XX to Directive 2004/17/EC and Annex VIII to Directive 2004/18/EC of the European Parliament and the Council on public procurement.

10. Commission Regulation (EC) No 1564/2005 of 7 September 2005 establishing standard forms for the publication of notices in the framework of public procurement procedures pursuant to Directives 2004/17/EC and 2004/18/EC of the European Parliament and of the Council.

11. Directive 2005/75/EC of the European Parliament and of the Council of 16 November 2005 correcting Directive 2004/18/EC on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts.”

Article 2. Entry into Force of the Law

1. This Law, except for its Article 3, shall enter into force as of 31 January 2006.

2. Upon the entry into force of this Law the procurement contract notices whereof were published prior to its entry into force (invitation published in the press or sent to suppliers) shall be performed and the complaints related to the procurement shall be reviewed according to the provisions contained in the Republic of Lithuania Law on Public Procurement of 3 December 2002 No. IX-1217.

Article 3. Implementation of the Law

The Government or an institution authorised by it shall by 31 January 2006 consider the legal acts related to the implementation of provisions of this Law and, where necessary, draw up drafts on the amendment of certain legal acts or adopt new legal acts.

I promulgate this Law passed by the Seimas of the Republic of Lithuania.

PRESIDENT OF THE REPUBLIC
ADAMKUS

VALDAS

